

CHAPTER 136

(HB 327)

AN ACT relating to statutorily mandated fees.

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

➔Section 1. KRS 194A.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and *comprehensive* programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary may utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations relating to initiatives of the Department for Public Health. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.
- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, ***but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year***~~none of which shall exceed one hundred dollars (\$100)~~, to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

➔Section 2. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) An on-site visit of an assisted-living community shall be conducted by the cabinet:
 - (a) As part of the initial certification review process;
 - (b) On a biennial basis as part of the certification review process if during or since the previous certification review an assisted-living community has not received:
 1. Any statement of danger, unless withdrawn by the cabinet; or
 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service; and
 - (c) Within one (1) year of the date of the previous certification review if during or since the last certification review an assisted-living community has received:
 1. Any statement of danger that was not withdrawn by the cabinet; or
 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service.
- (3) No business shall market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; or

- (b) Received certification by the department as an assisted-living community.
- (4) No business that has been denied or had its certification revoked shall operate or market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; and
 - (b) Received certification as an assisted-living community from the department. Revocation of certification may be grounds for the department to not reissue certification for one (1) year if ownership remains substantially the same.
- (5) No business shall operate as an assisted-living community unless its owner or manager has:
 - (a) Filed a current application for the business to be certified as an assisted-living community by the department; and
 - (b) Received certification as an assisted-living community from the department.
- (6) By September 1 of each year, each assisted-living community certified pursuant to this chapter may provide residents with educational information or education opportunities on influenza disease.
- (7) The department shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the department.
- (8) Individuals designated by the department to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (9) ***The cabinet may promulgate administrative regulations to establish an assisted-living community certification fee that shall not exceed costs of the program to the cabinet, to be assessed*** upon receipt of an application for certification, ~~the department shall assess an assisted-living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted living community is no less than three hundred dollars (\$300) and no more than one thousand six hundred dollars (\$1,600)].~~ The department shall submit a breakdown of fees assessed and costs incurred for conducting certification reviews upon request.
- (10) The department shall make findings from certification reviews conducted during the prior twelve (12) months available to any interested person.
- (11) Notwithstanding any provision of law to the contrary, the department may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.
- (12) Failure to follow an assisted-living community's policies, practices, and procedures shall not result in a finding of noncompliance unless the assisted-living community is out of compliance with a related requirement under KRS 194A.700 to 194A.729.

➔Section 3. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the department shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The department may ***promulgate administrative regulations to establish a fee that shall not exceed costs of the program to the cabinet, to be charged for the written correspondence to the lender*** ~~charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender].~~

➔Section 4. KRS 199.640 is amended to read as follows:

- (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring facility or child-placing agency shall first obtain a license to conduct, operate, or maintain the facility or agency from the cabinet.
- (2) The cabinet shall:
 - (a) Develop standards, as provided in subsection (5) of this section, which must be met by any facility or agency seeking to be licensed to conduct, operate, or maintain a child-caring facility or child-placing agency;

- (b) Issue licenses to any facility or agency found to meet established standards and revoke or suspend a license after a hearing in any case that a facility or agency holding a license is determined to have substantially failed to conform to the requirements of the standards;
 - (c) Establish and follow procedures designed to insure that any facility or agency licensed to conduct, operate, or maintain a child-caring facility or child-placing agency complies with the requirements of the standards on an ongoing basis.
- (3) Licenses shall be issued for a period of one (1) year from date of issue unless revoked by the cabinet. Each licensed facility or agency shall be visited and inspected at least one (1) time each year by a person authorized by the cabinet and meeting specific qualifications established by the secretary of the cabinet in an administrative regulation. A complete report of the visit and inspection shall be filed with the cabinet.
- (4) Each license issued shall specify the type of care or service the licensee is authorized to perform. ***The cabinet may promulgate administrative regulations to establish fees that shall not exceed costs of the program to the cabinet, for the proper administration of licensure*** ~~Each initial application for a license shall be accompanied by a fee of one hundred dollars (\$100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars (\$50).~~ The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.
- (5) (a) The secretary shall promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in the care of the facility or agency, the basic components for a quality program, as referenced below, and any other factors as may be necessary to promote the welfare of children cared for or placed by the agencies and facilities. Standards established may vary depending on the capacity of the agency or facility seeking licensure. These administrative regulations shall establish standards that insure that:
1. The treatment program offered by the facility or agency is directed toward child safety, improved child functioning, improved family functioning, and continuity and permanence for the child;
 2. The facility or agency has on staff, or has contracted with, individuals who are qualified to meet the treatment needs of the children being served, including their psychological and psychiatric needs;
 3. The facility or agency has procedures in place to insure that its staff receives ongoing training and that all staff members who are required to do so meet all regional and national standards;
 4. The facility or agency develops an integrated, outcomes-based treatment plan that meets the health, mental health, education, safety, and security needs of each child in its care;
 5. The facility or agency has procedures in place to include parents, family, and other caregivers in a child's treatment program;
 6. The facility or agency has procedures in place whereby it evaluates its programs on a quarterly basis and documents changes in the program if the results of the review indicate a change is needed;
 7. The facility or agency makes available quality programs for substance abuse prevention and treatment with providers licensed under KRS Chapter 222 as part of its treatment services;
 8. The facility or agency initiates discharge planning at admission and provides sufficient aftercare; and
 9. The facility or agency has procedures in place that outline the structure and objectives of cooperative relationships with the community within which it is located and the local school district.
- (b) The secretary shall promulgate ***administrative*** regulations establishing recordkeeping and reporting requirements and standards for licensed agencies and facilities that recognize the electronic storage and retrieval of information for those facilities that possess the necessary technology and that include, at a minimum, the following information relating to children in the care of the agency or facility:
1. The name, age, social security number, county of origin, and all former residences of the child;

2. The names, residences, and occupations, if available, of the child's parents;
 3. The date on which the child was received by the agency or facility; the date on which the child was placed in a foster home or made available for adoption; and the name, occupation, and residence of any person with whom a child is placed; and
 4. A brief and continuing written narrative history of each child covering the period during which the child is in the care of the agency or facility.
- (c) The secretary may promulgate administrative regulations creating separate licensure standards for different types of facilities.
- (d) The secretary shall promulgate administrative regulations to establish practices and procedures for the inspection of child-caring facilities and child-placing agencies. These administrative regulations shall establish a uniform reporting mechanism that includes guidelines for enforcement.
- (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline, or behavior modification and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency.
- (7) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

➔Section 5. 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 ~~cabinet~~~~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 ***that shall not exceed administrative costs of the program to the cabinet***~~of not more than fifty dollars (\$50)}~~ and shall be renewable annually upon expiration and reapplication when accompanied by a ***renewal fee that shall not exceed administrative costs of the program to the cabinet***~~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 199.8965.
- (22) 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 6. KRS 199.8982 is amended to read as follows:

- (1) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:
1. Submit two (2) written character references;
 2. Provide a written statement from a physician or advanced practice registered nurse that the applicant is in good health;
 3. Submit to a criminal record check in accordance with KRS 199.8965;
 4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
 5. Provide a copy of the results of a tuberculosis risk assessment and the results of any appropriate follow-up with skin testing or chest X-ray for applicants who are determined to be at risk for

developing tuberculosis in accordance with the recommendations of the Centers for Disease Control and Prevention within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
 - a. Basic health, safety, and sanitation;
 - b. Recognizing and reporting child abuse; and
 - c. Developmentally appropriate child-care practice.
- (b) Initial applications for certification shall be made to the department ~~and shall be accompanied by a ten dollar (\$10) certification fee~~. ***The cabinet may promulgate administrative regulations to establish fees that shall not exceed costs of the program to the cabinet, for proper administration of the certification.*** The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee ***that shall not exceed costs of the program to the cabinet for renewal*** ~~of ten dollars (\$10)~~.
- (c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.
- (d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.
- (e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.
- (f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:
1. Certification requirements and procedures;
 2. Information about available child-care training; and
 3. Child-care food sponsoring organizations.
- (2) Family child-care providers 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 abusive head trauma approved by the secretary of the Cabinet for Health and Family Services. 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.

- (3) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (1)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (1)(a)6. of this section.

➔Section 7. KRS 211.180 is amended to read as follows:

- (1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health and Family Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and *comprehensive* programs relating to all matters of public health, including but not limited to the following matters:
- (a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;
 - (b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;
 - (c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;
 - (d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;
 - (e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;
 - (f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and
 - (g) Protection and improvement of the health of the people through better nutrition.
- (2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed *costs of the program to the cabinet to cover inspector hours and but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year, [twenty dollars (\$20) per inspector hour plus]* travel ~~costs~~ pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited

to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

- (3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 8. KRS 211.357 is amended to read as follows:

- (1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed inspection, shall be certified automatically.
- (2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at the time that the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed the inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make installations in accordance with requirements set forth by the Cabinet for Health and Family Services.
- (3) *The cabinet may promulgate administrative regulations to establish a fee that shall not exceed administrative costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year, that shall be paid by persons certified as installers, except master plumbers licensed pursuant to KRS Chapter 318, shall pay a reasonable fee of not more than twenty five dollars (\$25) for certification.*
- (4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:
- Knowingly violated the provisions of this chapter or the regulations of the cabinet;
 - Practiced fraud or deception in applying for or obtaining a certificate;
 - Is incompetent to install on-site sewage disposal systems;
 - Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or
 - Is guilty of other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.
- (5) Upon appeal of any decision to revoke or suspend a certification, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (6) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for these systems established by the cabinet.

➔Section 9. KRS 211.760 is amended to read as follows:

- (1) As used in this section:
- "Body piercing" means the act of penetrating the skin or body part of a human being to make a hole, mark, or scar;
 - "Facility" means the place of business where tattooing, body piercing, or both are conducted; and
 - "Tattooing" means the act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup.
- (2) No person shall engage in, offer to engage in, or carry on any business of tattooing, body piercing, or both of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first

registering with the local health department in the district or county in which the person is to perform tattooing, body piercing, or both. Registrations shall be valid for one (1) year. Applicants for registration shall pay a fee **that shall not exceed administrative costs of the program to the cabinet**, ~~of twenty dollars (\$20)]~~ to the local or district health department.

- (3) The Cabinet for Health and Family Services shall promulgate administrative regulations relating to:
 - (a) Health and cleanliness of places of business in which tattooing, body piercing, or both are conducted;
 - (b) Sterilization of tattooing and body piercing apparatus;
 - (c) Procedures to prevent the spread of disease or infection during or relating to tattooing and body piercing procedures;
 - (d) Procedures to prevent any tattooing or body piercing of minors without the written notarized consent of a custodial parent or legal guardian; and
 - (e) Such other administrative regulations as may be necessary to protect public health or properly administer the program requirements of this section, **including application and licensing fees**.
- (4) Representatives of the cabinet or local or district health departments may visit a facility at any time during business hours to ensure compliance with the requirements of this section. Representatives of local or district health departments shall visit each registered facility in their county or district not less than twice each year.
- (5) Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 10. KRS 211.976 is amended to read as follows:

- (1) All persons proposing to engage in business for the purposes of this chapter shall file an application for licensing on forms provided by the cabinet with information specifying that waste hauling is restricted to household sewage or sludge only; commercial or industrial sanitary sewage or sludge only; grease trap sewage or sludge only; or combinations of the above. Other information deemed necessary, as well as the required fee, shall accompany the application. The secretary may **promulgate administrative regulations to establish a fee schedule that shall not exceed the costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year** ~~establish a fee schedule according to authorization in the state budget document~~.
- (2) If the cabinet, after any investigation it deems necessary, finds that the applicant has the qualifications, experience, reputation, and approved site for disposal necessary to perform the service in an acceptable manner and not detrimental to the environment or to public health, it shall issue or cause to be issued a license for the said business. This license is not transferable. The application for license shall be made to the cabinet prior to March 1 of each year, and shall be accompanied by a surety bond tendered by a company registered in the Commonwealth of Kentucky, to indemnify persons for whom service and maintenance work is performed, if faulty, and to guarantee disposal of sewage sludge in an approved manner; or with sureties, form and sufficiency acceptable to the cabinet. **The amount of the bond shall be established by administrative regulation promulgated by the cabinet** ~~Bonds shall be in the amount of two thousand dollars (\$2,000)]~~. The cabinet shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons and the environment damaged by faulty workmanship in the servicing or maintaining of sewage pretreatment units, grease traps, or holding tanks, or in the disposal of sewage sludge, and shall guarantee the appearance of the licensee to answer any summons within thirty (30) days of notice to the bonding company of the issuance of summons. Bonds shall be conditioned upon the performance of the services in a workmanlike manner, and in a manner which will not create a public health hazard nor damage the environment.

➔Section 11. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars (\$10) to be paid for a certified copy of a record of a birth:

- (a) Three dollars (\$3) of which shall be used by the Cabinet for Health and Family Services for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children; and
- (b) One dollar (\$1) of which shall be used by the Division of Maternal and Child Health to pay for therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified foods for all inborn errors of metabolism and genetic conditions if:
 - 1. The therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products are medically indicated for the therapeutic treatment of inborn errors of metabolism or genetic conditions and are administered under the direction of a physician; and
 - 2. The affected person's therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein foods are not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4)
 - (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
 - (b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.
 - (c) ***No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a child who is in the custody of or committed to the cabinet, including a child who has extended commitment to the cabinet in accordance with KRS 610.110(6).***
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

➔Section 12. KRS 217.125 is amended to read as follows:

- (1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health and Family Services.
- (2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall ***promulgate administrative regulations to establish a fee schedule not to exceed costs of the program to the cabinet***~~according to authorization in the state budget document~~. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.
- (3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.
- (4) Except as otherwise provided in subsection (11) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall ***promulgate administrative regulations to establish a fee schedule not to***

exceed costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year ~~[according to authorization in the state budget document].~~

- (5) Except as otherwise provided in subsection (11) of this section, each application for a farmers market temporary food service establishment shall be accompanied by the required fee of at least fifty dollars (\$50). The secretary shall establish a fee schedule by promulgation of administrative regulation. Fees collected by the cabinet shall be used to carry out duties related to farmers market temporary food service establishments, including but not limited to inspections and the issuance of permits.
- (6) An applicant for a permit to operate a farmers market temporary food service establishment must provide documentation of successful completion of a food safety training program offered by either the state, a local health department, or other entity approved by the cabinet to conduct food safety training. Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance. Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.
- (7) Upon expiration of a temporary food service establishment permit, any subsequent permits shall not be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.
- (8) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.
- (9) Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same operator.
- (10) In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.
- (11) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.
- (12) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (11) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.
- (13) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

➔Section 13. KRS 217.811 is amended to read as follows:

The cabinet shall promulgate administrative regulations to establish a fee not to exceed the costs to the cabinet of the program, but in no event shall an increase be more than five percent (5%) per year, that shall be paid with each application for permit to operate a vending machine company ~~[shall be accompanied by a fee of ten dollars (\$10)]~~ *for each vending machine commissary plus a fee for the total number of vending machines operated by the applicant.* ~~[as follows:~~

- ~~1- 25 machines fee \$ 50~~
- ~~26- 50 machines — fee \$ 75~~
- ~~51- 100 machines — fee \$100~~

~~101–150 machines fee \$125~~

~~151 and over machines fee \$200~~

~~Provided, that~~ Vending machines dispensing only bottled or canned soft drinks; prepackaged nonpotentially hazardous food; chewing gum, nuts, and/or candies shall be exempt from the permit and fee requirements of KRS 217.808 to 217.812.

➔Section 14. KRS 217.924 is amended to read as follows:

- (1) A tanning facility shall give each customer a written statement pursuant to 21 C.F.R. 1040.20. The written statement shall include warnings stating that:
 - (a) Failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;
 - (b) Overexposure to ultraviolet light causes burns;
 - (c) Repeated exposure may result in premature aging of the skin and skin cancer;
 - (d) Abnormal skin sensitivity or burning may be caused by reactions of the following to ultraviolet light:
 1. Food;
 2. Cosmetics; or
 3. Medications, including but not limited to:
 - a. Tranquilizers;
 - b. Diuretics;
 - c. Antibiotics;
 - d. High blood pressure medicines; or
 - e. Birth control pills;
 - (e) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.
- (2) Each tanning facility shall:
 - (a) Maintain the written or electronic consent forms of the parents or guardians for a period of not less than two (2) years, and make the forms available to cabinet personnel for inspection upon request; and
 - (b) Make written or electronic records showing the dates and duration of use of a tanning device at the tanning facility by children fourteen (14) years of age to eighteen (18) years of age, maintain those records for a period of not less than two (2) years, and make the records available for cabinet or health department personnel for inspection upon request.
- (3) ~~Before July 1, 2007,~~ All indoor tanning facilities shall register with the local health department in the district or county in which the facility is operating. Registration shall be valid for one (1) year and applicants shall pay a fee **that shall not exceed administrative costs of the program**, ~~of twenty dollars (\$20)~~ to the district or county health department.

➔Section 15. KRS 219.021 is amended to read as follows:

- (1) No person shall operate a hotel without first having obtained a permit to operate from the cabinet. An application for a permit to operate any hotel shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet requires.
- (2) **The cabinet shall promulgate administrative regulations to establish a fee not to exceed administrative costs of the program to the cabinet, that shall be paid with each application for an annual permit and permit renewal to operate a hotel** ~~shall be accompanied by a fee of twenty five dollars (\$25)~~.
- (3) Upon receipt of an application for a permit to operate a hotel accompanied by the required fee, the cabinet shall issue a permit if the hotel meets the requirements of KRS 219.011 to 219.081 and **administrative regulations promulgated** ~~regulations adopted~~ by the cabinet. Hotels holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 219.011 to 219.081 and

the *administrative regulations promulgated by the cabinet*~~[regulations adopted pursuant thereto]~~, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner and if there is no change in ownership of the establishment.

- (4) Each annual permit to operate a hotel, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee ~~[of twenty five dollars (\$25)]~~, provided the hotel is in compliance with KRS 219.011 to 219.081 and *administrative regulations promulgated by*~~[regulations of]~~the cabinet.
- (5) Each permit to operate a hotel shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the hotel.

➔Section 16. KRS 219.340 is amended to read as follows:

- (1) *The cabinet shall promulgate administrative regulations to establish a schedule of fees not to exceed administrative costs of the program to the cabinet, that shall be paid*~~[the fee]~~ for a permit to operate a manufactured or mobile home community~~[shall be assessed according to the following fee schedule:~~

Number of Spaces	Initial Fee	Maximum Fee
10 spaces or less	\$50.00	\$50.00
11 - 50 spaces	\$150.00	\$185.00
51 - 100 spaces	\$160.00	\$195.00
101 - 200 spaces	\$170.00	\$225.00
201 or more spaces	\$180.00	\$250.00

~~The cabinet may, by administrative regulation, beginning July 1, 2003, increase the annual fee to operate a manufactured or mobile home community by not more than five percent (5%) per year, not to exceed the maximum fee on the fee schedule]. Upon receipt of an application for a permit to operate, accompanied by a permit fee, the cabinet shall issue a permit, provided the community meets the standards and requirements of KRS 219.310 to 219.410 and the *administrative regulations promulgated by the cabinet*~~[regulations adopted by the secretary]~~.~~

- (2) Each permit to operate, unless sooner suspended or revoked, shall expire on June 30 following its issuance, and be renewable annually, upon application and payment of a renewal fee established by the cabinet, provided the community is maintained and operated in compliance with KRS 219.310 to 219.410 and the administrative regulations *promulgated by the cabinet*~~[adopted by the secretary]~~.
- (3) Each permit to operate shall be issued only for the person and premises, including number of spaces, named in the application and shall not be transferable.
- (4) The person holding an operating permit shall post it conspicuously within the community or have it readily available for examination upon request by agents of the cabinet or prospective community occupants.

➔Section 17. KRS 221.020 is amended to read as follows:

- (1) Each frozen food locker plant or branch frozen food locker plant operated in this state shall be licensed under and subject to the provisions of KRS 221.010 to 221.100.
- (2) *The cabinet shall promulgate administrative regulations to establish a fee not to exceed administrative costs of the program to the cabinet, that shall be paid* ~~[There shall be paid to the secretary]~~with each application for a refrigerated locker license or for *annual license* renewal ~~[of such license an annual license fee of ten dollars (\$10)]~~and the funds therefrom shall be disbursed by the *cabinet*~~[secretary]~~ for the enforcement of KRS 221.010 to 221.100.
- (3) Each such license shall expire on December 31 following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the *cabinet*~~[secretary]~~ the old license certificate and paying the required annual license fee. ~~The~~~~[Such]~~ license fee shall not be transferable to any person nor be applicable to any location other than that for which originally issued.

➔Section 18. KRS 258.043 is amended to read as follows:

- (1) A local health department may sponsor mass rabies immunization clinics and shall contract with local veterinarians to administer the rabies vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians. *The cabinet shall promulgate administrative*

regulations to establish a reasonable fee, *not to exceed administrative costs of the program*, to be charged to the owner of each dog, cat, or ferret ~~[shall be determined by the local health department, not to exceed five dollars (\$5), to help defray the cost of the clinic.~~

- (2) No owner shall be required to have his dog, cat, or ferret vaccinated at a public clinic if he elects to have his dog, cat, or ferret vaccinated privately by a veterinarian of his choice.
- (3) No owner shall be required to have his dog vaccinated at a public clinic if he is a qualified person and elects to vaccinate his dog himself.

→Section 19. KRS 333.070 is amended to read as follows:

A medical laboratory license shall be valid for the calendar year for which it is issued. *The cabinet shall promulgate administrative regulations to establish fees, not to exceed the administrative costs to the program, for* the initial application ~~{fee}~~ for a license *and license renewal* ~~[shall be one hundred dollars (\$100)].~~ The license shall be renewable upon expiration and reapplication accompanied by the annual renewal fee ~~[to be paid according to the reasonable fee schedule established by regulations of the secretary; provided, however, that no fee shall exceed fifty dollars (\$50)].~~ Fees collected by the *cabinet* ~~[secretary]~~ shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this chapter. The balance of said account shall lapse to the general fund at the end of each biennium.

→Section 20. This Act takes effect July 1, 2019.

Signed by Governor April 10, 2018.