

CHAPTER 46**(SB 103)**

AN ACT relating to sheriffs and declaring an emergency.

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

➔Section 1. KRS 64.090 is amended to read as follows:

- (1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of Kentucky State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of Kentucky State Police makes a request that the sheriff perform any of the following:
- (a) Executing and returning process\$20.00;
 - (b) Serving an order of court and return3.00;
 - (c) Summoning or subpoenaing each witness, fee to be paid by requester
to sheriff before service10.00;
 - (d) Summoning an appraiser or reviewer2.00;
 - (e) Attending a surveyor, when ordered by a
court, per deputy or sheriff assigned20.00;
 - (f) Taking any bond that he is authorized or
required to take in any action5.00;
 - (g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a
delivery bond given and not complied with, six percent (6%) on the first three hundred dollars (\$300)
and three percent (3%) on the residue; when he or she levies an execution or distress warrant, and the
defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff,
half of the above commissions, to be charged to the plaintiff and collected as costs in the case;
 - (h) Taking a recognizance of a witness3.00;
 - (i) Levying an attachment5.00;
 - (j) When property attached is sold by an officer other than the officer levying the attachment, the court
shall, in the judgment, make the officer an additional and reasonable allowance for levying the
attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable
charges for removing and taking care of attached property shall be allowed by order of court;
 - (k) Summoning a garnishee3.00;
 - (l) Summoning a jury in a misdemeanor case, attending the trial, and
conducting the defendant to jail, to be paid by the party
convicted8.00;
 - (m) Serving process or arresting the party in
misdemeanor cases, to be paid by the plaintiff30.00;
 - (n) Serving an order or process of revivor3.00;
 - (o) Executing a writ of possession against each tenant or defendant7.00;
 - (p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the
debt is not paid, but stayed or secured, half commission;
 - (q) Summoning and attending a jury in a case of forcible entry and
detainer, besides fees for summoning witnesses8.00;

ACTS OF THE GENERAL ASSEMBLY

- (r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;
 - (s) Levying for a fee-bill3.00;
 - (t) Serving a notice2.00;
 - (u) Serving summons, warrants or process of arrest in cases of children born out of wedlock6.00;
 - (v) Serving a civil summons in a nonsupport case10.00;
 - (w) Serving each order appointing surveyors of roads, to be paid out of the county levy5.00;
 - (x) Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant5.00;
 - (y) Like services in cases of private passways to be paid by the applicant5.00;
 - (z) Executing each writ of habeas corpus, to be paid by the petitioner3.00;
 - (aa) All services under a writ issued under KRS 381.460 to 381.57010.00;
 - (bb) Fingerprinting persons for professional, trade, or commercial purposes, or for personal use, per set of impressions10.00;
 - (cc) Taking or copying photographs for professional, trade, or commercial purposes, or for personal use, per photograph5.00; and
 - (dd) For services in summoning grand and petit jurors and performing his or her duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of \$1.50 and for personal service the sum of \$3.00.
- (2) Sheriffs may charge and collect a fee of forty dollars (\$40) from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of Kentucky State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.
- (3) *Sheriffs may charge and collect a fee of twenty-five dollars (\$25) for the handling of an impounded vehicle and a fee of twenty-five dollars (\$25) per day for the storage of an impounded vehicle.*
- ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:
- (1) *As used in this section, "hearing board" or "board" means a body:*
- (a) *Established by ordinance;*
 - (b) *Empowered to conduct hearings pursuant to this section; and*
 - (c) *Composed of one (1) or more persons appointed pursuant to ordinance and any hearing officers appointed by the board.*
- Any actions of a hearing officer shall be deemed to be the action of the board.*
- (2) *A sheriff may impound a motor vehicle parked, stopped, or standing upon a street or public way within its jurisdiction that is in violation of an ordinance or statute prohibiting parking, stopping, or standing in the location, manner, or at the time the vehicle is cited or for any other lawful reason.*

- (3) *A sheriff may condition the release of an impounded motor vehicle upon the payment of the handling and storage fees imposed thereon, unless the owner or other person entitled to possession challenges the validity of the impoundment pursuant to subsection (4) of this section. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. The sheriff may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle to that person.*
- (4) *The owner of a motor vehicle which has been impounded pursuant to this section or other person entitled to possession may challenge the validity of the impoundment and request in writing a hearing before the hearing board. The hearing shall be conducted within ten (10) business days of the date of the request, unless the owner or other person entitled to possession waives the right to the hearing or the sheriff shows good cause for the delay. The sheriff shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the fees accrued as of the date of the hearing request, or seventy-five dollars (\$75), whichever is less. If the owner or person claiming possession of the vehicle is unable to pay the amount of the bond, the hearing shall be held within seventy-two (72) hours of the date the request for the hearing is received, unless that person requests or agrees to a continuance.*
- (5) (a) *At least five (5) days prior to the date set for the hearing, the sheriff shall notify the person requesting the hearing of the date, time, and place of the hearing. In the case of a hearing required to be held within seventy-two (72) hours of the date of the request as provided in subsection (4) of this section, the person requesting the hearing shall be informed at the time of his or her request, or as soon thereafter as is practicable, of the date, time, and place of the hearing.*
- (b) *Any person who refuses or, except for good cause, fails to appear at the date, time, and place set for the hearing shall be deemed to have conceded on that person's and owner's behalf that the impoundment was valid and reasonable.*
- (c) *At the hearing, after consideration of the evidence, the board shall determine whether the impoundment was valid and reasonable. If the board determines the impoundment was:*
1. *Valid and reasonable, the board shall uphold the impoundment and condition the release of the vehicle upon payment of all fees accruing thereto. If a bond was posted as security for release of the vehicle, the bond shall be forfeited to the sheriff. Any fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to the sheriff; or*
 2. *Not valid and reasonable, an order releasing the vehicle shall be entered. All fees paid or amounts posted as bond because of the impoundment of the vehicle shall be returned.*
- The board shall furnish the owner or person appearing on the owner's behalf with a copy of its order.*
- (d) *The board may consider a parking citation and any other written report made under oath by the issuing officer in lieu of the officer's personal appearance at the hearing.*
- (e) *An appeal from the hearing board's determination may be made to the District Court of the county in which the sheriff is located within seven (7) days of the board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on the sheriff to establish that the impoundment was valid and reasonable. If the court finds that the impoundment was:*
1. *Valid and reasonable, the owner shall be ordered to pay all fees accruing thereto as of the date of judgment; or*
 2. *Not valid and reasonable, the sheriff shall be ordered to release the vehicle, if applicable, and to return all fees paid as a result of the impoundment and the plaintiff shall be authorized to recover his or her costs.*
- (f) *The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.*

➔Section 3. Whereas confusion exists as to whether a sheriff may charge for the storage of impounded vehicles, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2019.