

CHAPTER 167**(HB 274)**

AN ACT relating to conservation officers.

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

➔Section 1. KRS 150.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline, or sport fishing trotline;
- (2) "Buy" includes offering to buy, acquiring, or possessing through purchase, barter, exchange, or trade;
- (3) "Commercial trotline" means a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;
- (4) "Commission" means the Department of Fish and Wildlife Resources Commission;
- (5) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;
- (6) **"Conservation officer" means any member of the Kentucky Department of Fish and Wildlife Resources Law Enforcement Division, pursuant to Section 2 of this Act, who possesses the powers of a peace officer;**
- (7) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;
- ~~(8)(7)~~ "Device" means any article, instrument, or equipment of whatever nature or kind which may be used to take wild animals, wild birds, or fishes;
- ~~(9)(8)~~ "Department" means the Department of Fish and Wildlife Resources;
- ~~(10)(9)~~ "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;
- ~~(11)(10)~~ "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;
- ~~(12)(11)~~ "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;
- ~~(13)(12)~~ "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;
- ~~(14)(13)~~ "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;
- ~~(15)(14)~~ "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;
- ~~(16)(15)~~ "Jugging" means a means of fishing by which a single baited line is attached to any floating object;
- ~~(17)(16)~~ "License" means any document issued by the department authorizing its holder to perform acts authorized by the license and includes any other form of authorization in addition to or in lieu of an actual document which may be authorized by the department by administrative regulation;
- ~~(18)(17)~~ "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- ~~(19)(18)~~ "Migratory shore or upland game birds" means all species of migratory game birds except waterfowl;
- ~~(20)(19)~~ "Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky; rock bass or goggle-eye; trout; crappie; walleye; sauger; pike; members of the striped bass family; and muskellunge;
- ~~(21)(20)~~ "Navigable waters" means any waters within this state under lock and dam;

- (22)~~(21)~~ "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for thirty (30) days immediately prior to his application for a license;
- (23)~~(22)~~ "Permit" means any document issued by the department authorizing its holder to perform acts authorized by the permit and includes tags which shall be affixed to wildlife or devices as evidence of holding a permit and includes any other form of authorization in addition to or in lieu of an actual document authorized by the department by administrative regulation;
- (24)~~(23)~~ "Possess" means the act of having or taking into control;
- (25)~~(24)~~ "Prescribed by the department" means established by an administrative regulation;
- (26)~~(25)~~ "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;
- (27)~~(26)~~ "Protected wildlife" means all wildlife except those species declared unprotected by administrative regulations promulgated by the department;
- (28)~~(27)~~ "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts, and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county, or municipal agency;
- (29)~~(28)~~ "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;
- (30)~~(29)~~ "Raw fur" means a hide, fur, or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling, or coloring of the pelt of the animal shall not be considered processing;
- (31)~~(30)~~ "Administrative regulation" means a written regulation promulgated, pursuant to KRS Chapter 13A, by the commissioner with the approval of the commission;
- (32)~~(31)~~ "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for thirty (30) days immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full-time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;
- (33)~~(32)~~ "Resist" means to ~~point a gun at,~~ leave the scene, intimidate or attempt to intimidate in any manner, or further interfere in any manner with any officer in the discharge of his duties;
- (34)~~(33)~~ "Rough fish" means all species of fishes other than those species designated by administrative regulation as sport fishes;
- (35)~~(34)~~ "Sell" includes offering to sell, having or possessing for sale, barter, exchange, or trade;
- (36)~~(35)~~ "Setline" means a line to which is attached one (1) single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole, or other stationary object, on the bank of a stream or impoundment;
- (37)~~(36)~~ "Snagging" means the taking of fish or other aquatic animals through the use of a hand-held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;
- (38)~~(37)~~ "Sports fishing trotline" means a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches;
- (39)~~(38)~~ "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture wildlife in any way and any lesser act designed to lure, attract, or entice for these purposes; and to place, set, aim, or use any device, animal, substance, or agency which may reasonably be expected to accomplish these acts; or to attempt to do these acts or to assist any other person in the doing of or the attempt to do these acts;
- (40)~~(39)~~ "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;
- (41)~~(40)~~ "Transport" means to carry, move, or ship wildlife from one place to another;
- (42)~~(41)~~ "Waterfowl" means all species of wild ducks, geese, swans, mergansers, and coots; and

~~(43)~~~~(42)~~ "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian, or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched, or born in captivity and including any part, product, egg, or offspring thereof, protected or unprotected by this chapter.

➔Section 2. KRS 150.090 is amended to read as follows:

- (1) ***The commissioner shall appoint, promote, or take other employment actions to the ranks, grades, and positions of the department conservation officers who are considered by the commissioner to be necessary for the efficient administration of the department.***
- (2) Conservation officers appointed by the commissioner shall have full powers as peace officers for the enforcement of all of the laws of the Commonwealth, ***including the administrative regulations promulgated pursuant to KRS Chapters 150 and 235 and***~~except that they shall not enforce laws other than this chapter and the administrative regulations issued thereunder or~~ to serve process ~~unless so directed by the commissioner in life threatening situations or when assistance is requested by another law enforcement agency~~.
- (3) ***Each conservation officer is individually vested with the powers of a peace officer and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables, and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment and within the scope of their duties. Any warrant of arrest may be executed by any officer of the department.***
- ~~(2) The commissioner may appoint other persons to enforce only the provisions of this chapter and the administrative regulations issued thereunder. Such persons shall have the power to make arrests or issue citations only for violations of this chapter and the administrative regulations issued thereunder.~~
- ~~(3) All other peace officers and their deputies shall enforce the provisions of this chapter and the administrative regulations issued thereunder.~~
- (4) ***Conservation officers***~~[All persons]~~ charged with the enforcement of this chapter and the administrative regulations issued thereunder shall have the right to go upon the land of any person or persons whether private or public for the purpose of ~~conducting research or investigation of game or fish or their habitat conditions or engage in restocking game or fish or in any type of work involved in or incident to game and fish restoration projects or their enforcement or in~~ the enforcement of laws or orders of the department relating to game or fish, while in the normal, lawful and peaceful pursuit of such investigation or work or enforcement, may enter upon, cross over, be upon, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting with or without process any person found by them violating any of the provisions of this chapter and may seize without process anything declared by this chapter to be contraband. No liability shall be incurred by any person charged or directed in the enforcement of this chapter.
- (5) Conservation officers and other officers charged with the enforcement of this chapter, shall have the authority to call for and inspect the license or tag, bag or creel of any person engaged in any activity for the performance of which a license is required under this chapter, and shall also have the authority to take proper identification of any person, or hunter, or fisherman who is actually engaged in any of these activities, and to call for and inspect any and all firearms and any other device that may be used in taking wildlife and is in the possession of any person so engaged.
- (6) No person shall resist, obstruct, interfere with or threaten or attempt to intimidate or in any other manner interfere with any officer in the discharge of his duties under the provisions of this chapter. This subsection shall not apply to a criminal homicide or an assault upon such officer. An assault upon such officer shall be deemed an offense under KRS Chapter 507 or 508, as appropriate.

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

- (1) ***Any conservation officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the***

judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the fish and game fund for the payment of judgments, to the extent of his or her actual financial loss.

- (2) *The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of employment of the conservation officer, and occurred during the performance of duty, and was committed or omitted in the good faith belief that the act or omission was lawful and proper.*
- (3) *The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the conservation officer and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.*

➔Section 4. KRS 15.460 is amended to read as follows:

- (1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of government shall be entitled to receive an annual supplement of three thousand dollars (\$3,000) for each qualified police officer it employs. The supplement amount shall be increased to four thousand dollars (\$4,000) beginning July 1, 2018.
- (b) 1. In addition to the supplement, the unit of government shall receive an amount equal to the required employer's contribution on the supplement to the retirement plan and duty category to which the officer belongs. In the case of County Employees Retirement System membership, the retirement plan contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage.
2. The unit of government shall pay the amount received for retirement plan coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement.
3. If the foundation program funds are insufficient to pay employer contributions to the system, then the total amount available for retirement plan payments shall be prorated to each eligible government so that each receives the same percentage of required retirement plan costs attributable to the cash salary supplement.
- (c) 1. In addition to the payments received under paragraphs (a) and (b) of this subsection, but only if sufficient funds are available to make all payments required under paragraph (b) of this subsection, each unit of government shall receive an administrative expense reimbursement in an amount equal to seven and sixty-five one-hundredths percent (7.65%) of the total annual supplement received greater than three thousand one hundred dollars (\$3,100) for each qualified police officer that is a local officer as defined in KRS 15.420(2)(a)1. that it employs, subject to the cap established by subparagraph 3. of this paragraph.
2. The unit of government may use the moneys received under this paragraph in any manner it deems necessary to partially cover the costs of administering the payments received under paragraph (a) of this subsection.
3. The total amount distributed under this paragraph shall not exceed the total sum of five hundred twenty-five thousand dollars (\$525,000) for each fiscal year. If there are insufficient funds to provide for full reimbursement as provided in subparagraph 1. of this paragraph, then the amount shall be distributed pro rata to each eligible unit of government so that each receives the same percentage attributable to its total receipt of the cash salary supplement.
- (d) In addition to the payments received under paragraphs (a) and (b) of this subsection, each unit of government shall receive the associated fringe benefits costs for the total supplement of four thousand dollars (\$4,000) for each qualified police officer that is a state officer as defined in KRS 15.420(2)(a)2. that it employs. Fringe benefits shall be limited to retirement plan contributions and the federal insurance contributions act tax.
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky Department of Fish and Wildlife Resources conservation officer appointed pursuant to KRS ~~150.090(1)~~ **150.090(2)** and listed in KRS 15.420(2)(a)2.n. shall be a participant in the Kentucky Law Enforcement Foundation Program fund, but shall not receive an annual supplement from that fund. A conservation officer shall receive an annual training stipend commensurate to the annual supplement paid to the police officer as defined in KRS

15.420. The annual training stipend disbursed to a conservation officer shall be paid from the game and fish fund pursuant to KRS 150.150.

- (f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall be deemed a police officer solely for the purpose of inclusion in the Law Enforcement Foundation Program fund.
- (2) The supplement provided in subsection (1) of this section shall be paid by the unit of government to each police officer whose qualifications resulted in receipt of a supplemental payment. The payment shall be in addition to the police officer's regular salary and, except as provided in subsection (4)(b) of this section, shall continue to be paid to a police officer who is a member of:
 - (a) The Kentucky National Guard during any period of activation under Title 10 or 32 of the United States Code or KRS 38.030; or
 - (b) Any reserve component of the United States Armed Forces during any period of activation with the United States Armed Forces.
- (3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.
- (b) A qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon annual settlement with the fiscal court under KRS 134.192, receive that portion of the supplement that will not cause his or her compensation to exceed the maximum salary.
- (c) A qualified sheriff who seeks to participate in the fund shall forward a copy of the annual settlement prepared under KRS 134.192 to the fund. The sheriff shall reimburse the fund if an audit of the annual settlement conducted pursuant to KRS 134.192 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the annual settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.
- (d) A qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his or her own budget or from the county treasurer if the sheriff pools his or her fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his or her deputies to participate in the fund.
- (4) (a) Eligible units of government shall receive the salary supplement, excluding funds applicable to the employer's retirement plan contribution, provided in subsection (1) of this section for distribution to a police officer who is eligible under subsection (2) of this section.
- (b) A qualified police officer receiving a salary supplement during any period of military activation, as provided in subsection (2) of this section, shall not be entitled to receive the employer's retirement plan contribution, and the salary supplement shall not be subjected to an employee's contribution to a retirement plan. The salary supplement shall otherwise be taxable for all purposes.
- (5) A unit of government receiving disbursements under this section shall follow all laws applicable to it that may govern due process disciplinary procedures for its officers, but this subsection shall not be interpreted to:
 - (a) Authorize the department, the cabinet, or the council to investigate, judge, or exercise any control or jurisdiction regarding the compliance of a unit of government with laws that may govern due process disciplinary procedures for its officers, except as otherwise provided by laws;
 - (b) Create a private right of action for any police officer regarding an agency's participation in this section;
 - (c) Authorize a termination of an agency's participation as a result of a judgment that the unit of government failed to follow its procedures in any independent cause of action brought by the police officer against the unit of government; or
 - (d) Prevent the adoption, amendment, or repeal of any laws that may govern the due process disciplinary procedures of a unit of government's police officers.

➔Section 5. KRS 186.675 is amended to read as follows:

- (1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents (\$4.50). The annual registration fee for

- trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents (\$19.50).
- (2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of:
 - (a) Boats;
 - (b) Luggage;
 - (c) Personal effects;
 - (d) Farm products, farm supplies, or farm equipment;
 - (e) All-terrain vehicles as defined in KRS 189.010(24);
 - (f) Wildlife as defined in KRS ~~150.010(43)~~~~[150.010(42)]~~ that the owner or operator of the trailer has obtained while hunting; and
 - (g) Firearms or other supplies used in conjunction with hunting wildlife.
 - (3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents (\$9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents (\$4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar (\$1).
 - (4) Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars (\$98). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars (\$3).

Signed by Governor March 26, 2019.