

CHAPTER 137

(SB 86)

AN ACT relating to solid waste and making an appropriation therefor.

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

➔Section 1. KRS 30A.190 is amended to read as follows:

All fees, fines, forfeitures, and costs in any District Court or Circuit Court case shall be collected and accounted for by the Circuit Court clerk and paid into the State Treasury, except that:

- (1) Sixty percent (60%) of any fines imposed for the violation of KRS Chapter 150 or KRS Chapter 235 shall when collected be paid into the fish and game fund;~~;~~
- (2) Sixty percent (60%) of any fines imposed for the violation of KRS 433.753, 433.757, or 512.070 shall when collected be paid to the county in which the violation occurred;~~;~~~~and~~
- (3) Forty percent (40%) of any fines imposed for the violation of KRS 433.753, 433.757, or 512.070 shall, when collected, be paid to the agency issuing the citation; **and**
- (4) ***One hundred percent (100%) of any fines imposed for the violation of subsection (5) of Section 3 of this Act and subsection (10) of Section 4 of this Act shall, when collected, be transferred to the treasurer of the county in which the violation occurred.***

➔Section 2. KRS 65.8808 is amended to read as follows:

- (1) The legislative body of a local government may, by ordinance, create a code enforcement board which shall have the power to issue remedial orders and impose civil fines as a method of enforcing a local government ordinance when a violation of the ordinance has been classified as a civil offense in accordance with this section. Any local government may expand its code enforcement board to include additional cities or counties within its jurisdiction for performing the function for which the code enforcement board was organized.
- (2) Subject to the limitations set forth in subsection (3) of this section, the legislative body of a local government may utilize a code enforcement board to enforce any ordinance of the local government, including but not limited to~~;~~ ***littering, open dumping of solid waste, or*** any zoning or nuisance ordinance. Each ordinance to be enforced by a code enforcement board, by its express terms, shall provide that each violation of the ordinance shall constitute a civil offense. The ordinance shall provide either:
 - (a) A specific civil fine or fines that may be imposed for each violation of the ordinance; or
 - (b) Two (2) separate civil fines as follows:
 1. A maximum civil fine that may be imposed for each offense if the citation is contested under KRS 65.8825(6); and
 2. A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.
- (3) ***With the exceptions of criminal littering under KRS 433.753 and littering of public waters under KRS 433.757,*** no legislative body of a local government shall classify the violation of an ordinance as a civil offense if the same conduct that is regulated by the ordinance would also, under any provision of the Kentucky Revised Statutes, constitute a criminal offense or a moving motor vehicle offense.

➔Section 3. KRS 224.40-100 is amended to read as follows:

- (1) No person shall transport to or dispose of waste at any site or facility other than a site or facility for which a permit for waste disposal has been issued by the cabinet. Upon request, any transporter of waste shall receive from the cabinet a current list of permitted waste disposal sites or facilities and shall be subsequently notified of any new permits or changes in the status of permits for waste disposal sites and facilities in the Commonwealth.
- (2) The use of open dumps is prohibited except in the case of an open dump which is under a timetable or schedule for compliance approved by the cabinet. The cabinet may enjoin the operation of any open dump which does not have a timetable or schedule of compliance approved by the cabinet.

- (3) The cabinet may require any person who violates this section or KRS 224.40-305 to take appropriate response actions to close and reclaim or upgrade open dumps to comply with applicable administrative regulations adopted by the cabinet. If a demand for response action is not implemented within a time period specified in a demand or timetable or schedule for compliance issued or approved by the cabinet, the cabinet may enjoin the operation of the open dump and restore the site.
- (4) Except as provided in KRS 224.43-020, the cabinet may assess any person who violates this section by failing to take appropriate actions to close and reclaim or upgrade open dumps, damages in an amount equal to the cost of closure as estimated by the cabinet. The money collected shall be placed in the agency account established under KRS 224.40-650(4) to be used for the site closure and restoration. Any money remaining after site closure and restoration from the amount assessed shall be returned to the person against whom any assessment was made.
- (5) *A legislative body of a local government, as defined in KRS 65.8805, that has not adopted the procedures provided for in KRS 65.8801 to 65.8840 may adopt ordinances against open dumping and impose a civil fine of not less than two hundred fifty dollars (\$250) and not more than five hundred dollars (\$500) on any person who violates subsection (1) of this section. Penalties shall be imposed by the District Court in the county where the offense occurred and shall be collected by the Circuit Court clerk and transferred to the treasurer in the county where the offense occurred for the abatement, cleanup, and restoration of the open dump site. Nothing contained in this subsection shall limit the cabinet's authority to:*
- (a) *Regulate the transport, permitting, or disposal of solid waste; or*
- (b) *Prohibit open dumping, impose fines and penalties, or impose any other requirements on solid waste disposal.*
- (6) *The District Court shall not enforce any provision of this section relating to improper disposal of solid waste against an owner, occupant, or person having control or management of any land if the owner, occupant, or person is:*
- (a) *Not the generator of the solid waste or is not disposing or knowingly allowing the disposal of solid waste and has made reasonable efforts to prevent the disposal of solid waste by other persons onto the property; or*
- (b) *A solid waste management facility operating in compliance with its solid waste management permit.*

➔Section 4. KRS 224.99-010 is amended to read as follows:

- (1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.1-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars (\$5,000) for said violation and an additional civil penalty not to exceed five thousand dollars (\$5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.
- (b) For offenses by motor vehicles, a person shall be guilty of a violation.
- (4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and

upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

- (5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.
- (6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.
- (8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil penalty not to exceed one thousand dollars (\$1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.
- (10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor. ***Penalties imposed under this subsection shall be, when collected, transferred to the county treasurer where the offense occurred and placed into a fund for solid waste cleanup. This subsection shall not be construed to divert any other fines assessed and collected by the cabinet or funds available to the cabinet for the purpose of remediation of open dumps.***
- (11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.
- (12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.
- (13) A violation of KRS 224.50-413 shall be subject to a fifty dollar (\$50) fine for each day the violation continues.
- (14) Any person who removes a methamphetamine contamination notice posted under KRS 224.1-410(9) contrary to the administrative regulations governing methamphetamine contamination notice removal shall be guilty of a Class A misdemeanor.

- (15) Any person who leases, rents, or sells a property that has been determined to be contaminated property under KRS 224.1-410(4) to a lessee, renter, or buyer without giving written notice that the property is a contaminated property pursuant to KRS 224.1-410(10) shall be guilty of a Class D felony.

➔Section 5. KRS 431.100 is amended to read as follows:

- (1) When a money judgment is entered against a defendant in a criminal proceeding and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the Commonwealth of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. Under no circumstances shall the general fund be used to reimburse court costs or pay for judgment.
- (2) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.
- (3) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health and Family Services for the provision of treatment and counseling programs for alcoholics.
- (4) Sixty percent (60%) of fines for violation of KRS 512.070, **433.753, and 433.757** shall, when collected, be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs *for the cleanup and abatement of litter and open dumps* and forty percent (40%) shall be transferred to the agency that issued the citation. ***One hundred percent (100%) of any fines imposed for the violation of subsection (5) of Section 3 of this Act and subsection (10) of Section 4 of this Act shall, when collected, be transferred to the treasurer of the county in which the violation occurred.***
- (5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the Commonwealth or any other public officer paid to any person or organization other than one specifically required by the Kentucky Revised Statutes, nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the Commonwealth if the defendant makes a payment to another person or organization, unless so authorized by the court and the Kentucky Revised Statutes.
- (6) When, as authorized in the Kentucky Revised Statutes, a court does order a fine, forfeiture, service fee, cost, or any other monetary penalty to be paid to a person other than the circuit clerk, notice of this order will be served on the defendant and a copy of the order will be delivered to the person. Such an order constitutes a judgment of the court and carries with it all lawful means of enforcement and collection.

Signed by Governor March 25, 2021.