

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at ARRS Committee)

301 KAR 4:112. Holding and preservation of seized wildlife.

RELATES TO: KRS 150.010, 150.025, 150.105, 150.120, 150.170, 150.280, 258.085

STATUTORY AUTHORITY: KRS 150.025, 150.105, 150.120

CERTIFICATION STATEMENT: The Kentucky Department of Fish and Wildlife Resources, pursuant to statutory authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 150 as established in KRS 150.025 and as an independent department of state government within the meaning of KRS Chapter 12 as established in KRS 150.021(1), promulgated by the commissioner with approval of the commission in accordance with KRS 150.010(1), does hereby certify this administrative regulation is promulgated in compliance with Section 8 of 2025 RS HB6.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations reasonably necessary to implement or carry out the purposes of KRS Chapter 150. KRS 150.092(3) authorizes Game Wardens to arrest or issue a citation to any person who is in violation of KRS Chapter 150 or administrative regulations adopted thereunder. KRS 150.105 authorizes the department to dispatch or bring under control any wildlife causing damage to persons, property, or other animals spreading disease and that should be eliminated to prevent further damage. KRS 150.120 authorizes the game wardens to seize and take possession of any and all wildlife which have been taken, used, transported, or possessed contrary to any law or regulation adopted under KRS Chapter 150. This administrative regulation establishes the parameters for impounding wildlife either alive or euthanized and preserved as evidence in a criminal proceeding until adjudication.

Section 1. Definition. "Impoundment agent" means an individual or entity authorized by contractual agreement with the department to hold impounded wildlife as evidence during a judicial process.

Section 2.

(1) Wildlife that is alive upon seizure by a game warden as evidence in a criminal case shall be impounded and held alive and preserved as evidence until adjudication of the case, unless the commissioner authorizes a game warden or other department personnel to destroy or bring under control any wild animal, fish, or wild bird in accordance with KRS 150.105.

(2) If an animal dies before adjudication of the case, it shall be preserved to prevent decay.

(3) A wild or exotic animal that bites a human being or exhibits symptoms of rabies shall be destroyed and tested in accordance with KRS 258.085(1)(c).

Section 3. Impoundment Agent Requirements.

(1) Holding expectations and exemption for an impoundment agent assisting the department~~KDFWR~~ in evidentiary impoundment and oversight of wildlife in a criminal case.~~f.f~~

(a) An impoundment agent shall be at least eighteen (18) years of age.

(b) An impoundment agent shall be under a current contract with the Department authorizing them to do so.

(c) An impoundment agent shall be subject to and comply with any federal holding requirements as applicable for species of wildlife being held.

(d) ~~Notwithstanding any other state regulatory restrictions,~~ Except for this administrative regulation, an impoundment agent shall be exempt from state species possession restrictions ~~iffwhen~~ acting as an agent of the state to hold impounded wildlife as evidence during judicial process.

(2) Impoundment agent holding impounded evidence shall:

- (a) Ensure impounded evidence is housed in an enclosure that complies with the established minimum standards within the contract;
- (b) House impounded evidence in a separate enclosure that prevents direct or indirect contact with free-ranging wildlife, domestic animals, or any other captive or rehabilitating wildlife being housed on the premises of the impoundment agent;
- (c) Maintain all impounded evidence in sanitary and safe conditions and in a manner that prevents maltreatment or neglect as referenced in 301 KAR 2:081 Section 8(5)(a)-(l); and
- (d) Ensure impounded evidence is housed in an enclosure sufficient to prevent escape and direct contact with the public.

Section 4. Identification and Handling of Impounded Evidence.

- (1) Impoundment agent shall ensure that all impounded wildlife be maintained on a chain of custody form.
- (2) The impoundment agent shall not:
 - (a) Propagate impounded evidence;
 - (b) Remove impounded evidence from the holding facility except for veterinary care;
 - (c) Exhibit impounded evidence for public display.

Section 5. Stewardship of Wildlife.

- (1) All impounded evidence held under the contract shall remain under the stewardship of the Department of Fish and Wildlife Resources, except that federally protected wildlife remains under the stewardship of both the Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
- (2) Impounded evidence shall be immediately surrendered to a game warden upon ~~their~~ request.

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