

### **301 KAR 1:132. Sale of live bait.**

RELATES TO: KRS 150.175, 150.180, 150.280, 150.450, 150.485

STATUTORY AUTHORITY: KRS 150.025(1), 50 C.F.R. 17.11

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate creel limits and methods of take, and to make these requirements apply to a limited area. 50 C.F.R. 17.11 establishes federally threatened or endangered fish species. This administrative regulation establishes the requirements under which live bait may be taken, transported, and sold.

#### Section 1. Definitions.

(1) "Asian carp" means:

- (a) Bighead carp;
- (b) Black carp;
- (c) Grass carp; or
- (d) Silver carp.

(2) "Live bait" means the live organisms established in paragraphs (a) through (h) of this subsection.

- (a) Live bait fishes;
- (b) Crayfish;
- (c) Salamanders;
- (d) Frogs, except bullfrogs;
- (e) Tadpoles;
- (f) Native lampreys;
- (g) Asiatic clams (Genus Corbicula); or
- (h) Other aquatic invertebrate organisms, except for mussels.

(3) "Live bait fishes" means:

- (a) Rough fishes, except Asian carp and federally threatened or endangered species as established in 50 C.F.R. 17.11; or
- (b) Redear sunfish less than six (6) inches in length.

#### Section 2. Legal sources of live bait.

(1) Live bait may be sold by a person possessing a valid:

- (a) Live fish and bait dealer's license if the person purchases the live bait from a legal source as established in this section; or
- (b) Commercial fishing license, if the live bait is taken pursuant to the requirements of this section.

(2) Live commercially harvested shad, herring, mooneye, goldeye, or Asian carp shall not be transported or sold.

(3) Legal sources of live bait shall include:

- (a) Live bait hatched and reared in Kentucky by a person possessing a valid commercial fish propagation permit;
- (b) Legal commercial live bait sources in states outside of Kentucky;
- (c) A person selling Asiatic clams obtained by means of a tagged commercial bait rake pursuant to Section 3 of this administrative regulation, if the person possesses a valid commercial fishing license; or
- (d) A person with a valid commercial fishing license who is selling live bait, except live shad, live herring, live goldeye, and live mooneye, if taken pursuant to Section 3 of this administrative regulation.

(4) A licensed live fish and bait dealer who purchases live bait from legal sources outside of Kentucky shall possess a bill of sale that lists the:

- (a) Date of purchase; and
- (b) Number of each type of live bait purchased.

Section 3. Legal methods of take.

- (1) A person shall not take live bait from any public waterway or water body for commercial purposes, except as established in this section.
- (2) A person who holds a valid commercial fishing license may sell:
  - (a) Live bait, except live shad, live herring, live goldeye, and live mooneye, that was taken with legally set commercial fishing gear;
  - (b) Dead shad and dead herring, if taken with a dip net with a maximum diameter of three (3) feet or a cast net with a maximum diameter of twenty (20) feet and possessing a maximum bar mesh of one (1) inch in the following bodies of water:
    - 1. Cumberland River below Barkley Dam;
    - 2. Kentucky River downstream of Lock Number Fourteen (14);
    - 3. Mississippi River;
    - 4. Ohio River; or
    - 5. Tennessee River; or
  - (c) Asiatic clams taken in legal commercial fishing waters pursuant to 301 KAR 1:150 with a tagged commercial live bait rake having the following specifications:
    - 1. A maximum width of twenty (20) inches;
    - 2. A maximum tine length of five (5) inches;
    - 3. A maximum distance in between tines of one (1) inch;
    - 4. A basket with a maximum:
      - a. Width of twenty (20) inches;
      - b. Length of ten (10) inches; and
      - c. Height of eight (8) inches;
    - 5. A rigid handle with a maximum length of twenty (20) feet; and
    - 6. The rake does not contain a bridle that would allow dragging.
- (3) Any mussel other than an Asiatic clam shall be returned to the water unharmed.

Section 4. Other requirements.

- (1) A person, corporation, or other business entity transporting, selling, or possessing live bait for sale in Kentucky shall hold a valid live fish and bait dealer's license and have in possession the license or exact copy thereof when transporting, selling, or holding live bait organisms in Kentucky.
  - (2) A live fish and bait dealer's license shall not be used in lieu of a fish propagation or transportation permit if these permits are also legally required.
  - (3) A person, corporation, or other business entity who transports live bait from one (1) state, through Kentucky, to another state without conducting any business in Kentucky shall not be required to have a live fish and bait dealer's license, but shall have a valid Kentucky transportation permit.
  - (4) A person, corporation, or other business entity is not required to possess a live fish and bait dealer's license if selling live bait as food in establishments licensed by another state agency to sell resale or wholesale food products.
- (301 KAR 001:132. KRWT-F-LB2-1; 1 Ky.R. 347; eff. 2-5-1975; 4 Ky.R. 125; 227; eff. 12-7-1977; 26 Ky.R. 2295; 27 Ky.R. 484; eff. 8-14-2000; 40 Ky.R. 644; 1040; eff. 11-7-2013; 45 Ky.R. 750; eff. 12-7-2018; Crt to Am; filing deadline 2-28-2027.)