

224.40-100 Disposal at other than permitted site or facility prohibited -- Open dump prohibited -- Exception -- Compliance with regulations required -- Damages for noncompliance -- Ordinances against open dumping.

- (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.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 137, sec. 3, effective June 29, 2021. -- Amended 1991 (1st Extra. Sess.), Ky. Acts ch. 12, sec. 35, effective February 26, 1991. -- Amended 1986 Ky. Acts ch. 172, sec. 2, effective July 15, 1986. -- Amended 1980 Ky. Acts ch. 284, sec. 3, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 113, sec. 7, effective June 17, 1978. -- Created 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 13, effective January 1, 1973.

Formerly codified as KRS 224.835 and also previously codified as 224.255.