

1 AN ACT relating to air ambulance services.

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

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 *(1) A health benefit plan issued or renewed on or after the effective date of this Act*
6 *shall:*

7 *(a) Provide coverage for out-of-network health care services performed by a*
8 *nonparticipating air ambulance provider that is equal to the average in-*
9 *network rate for health care services performed by a participating air*
10 *ambulance provider of the insurer issuing the health benefit plan;*

11 *(b) Include a program for payment of out-of-network air ambulance bills*
12 *submitted under this section. Under the program the insurer offering the*
13 *health benefit plan may elect:*

14 *1. To pay out-of-network air ambulance provider bills as submitted; or*

15 *2. To use the out-of-network air ambulance provider mediation process*
16 *described in subsection (4) of this section;*

17 *This paragraph shall not preclude an insurer and a facility-based out-of-*
18 *network air ambulance provider from agreeing to a separate payment*
19 *arrangement.*

20 *(2) An insurer issuing a health benefit plan shall not use the average of its in-*
21 *network rates for air ambulance services to decrease current or future*
22 *contractual rates between the insurer and an air ambulance provider.*

23 *(3) For purposes of settling a claim made by the covered person for air ambulance*
24 *services, when an insurer makes a payment that is in compliance with this section*
25 *it shall be deemed to be full and final payment by the covered person for the out-*
26 *of-network air ambulance services.*

27 *(4) (a) An insurer shall establish an air ambulance provider mediation process for*

- 1 payment of out-of-network air ambulance provider bills. The process shall
2 be established in accordance with mediation standards recognized by the
3 department.
- 4 (b) The terms of the insurer's air ambulance provider mediation process shall
5 be disclosed in accordance with KRS 304.17A-505.
- 6 (c) Compliance with the mediation process is not required if the insurer and
7 the out-of-network air ambulance provider agree to a separate payment
8 arrangement or if the covered person agrees to accept and pay the out-of-
9 network air ambulance provider's charges for the out-of-network services.
- 10 (d) An insurer shall maintain records of all requests for mediation and
11 completed mediations under this subsection for one (1) year and, upon
12 request of the commissioner, submit a report containing this information to
13 the commissioner in a format specified by the commissioner.
- 14 (5) The rights and remedies provided by this section to covered persons are in
15 addition to and shall not preempt any other rights and remedies available to
16 covered persons under state or federal law.
- 17 (6) If the department is aware of any violation of Section 2 of this Act by a facility
18 required to be licensed under KRS Chapter 216B, the department shall report the
19 violation to the Cabinet for Health and Family Services for the imposition of
20 penalties under Section 4 of this Act.
- 21 (7) The department shall publish on its Web site, at least quarterly, information
22 regarding the participating provider network status of each air ambulance service
23 provider authorized to operate in Kentucky.
- 24 (8) Nothing in this section or in Section 2 of this Act shall be construed to:
- 25 (a) Preclude a covered person from agreeing to accept and pay the charges for
26 the out-of-network air ambulance services and not accessing his or her
27 health benefit plan's out-of-network air ambulance payment program set

1 forth in this section; or

2 (b) Regulate an out-of-network air ambulance provider's ability to charge
 3 certain fees for services or to charge any amount of fee for services provided
 4 to a covered person by the out-of-network air ambulance provider.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 6 READ AS FOLLOWS:

7 (1) As used in this section:

8 (a) The following have the same meaning as in KRS 304.17A-005:

9 1. "Health benefit plan"; and

10 2. "Health care provider" or "provider"; and

11 (b) "Covered person" has the same meaning as in KRS 304.17A-500.

12 (2) Except as otherwise provided under this section, before a provider arranges for
 13 air ambulance services for an individual the provider knows to be a covered
 14 person, the provider shall request prior authorization from the covered person's
 15 health benefit plan for the air ambulance services to be provided to the covered
 16 person. If the provider is unable to request or obtain prior authorization from the
 17 covered person's health benefit plan, the provider shall supply to the covered
 18 person or his or her authorized representative an out-of-network services written
 19 disclosure. The disclosure shall state that:

20 (a) Air ambulance providers may be called upon to render care to the covered
 21 person during the course of treatment;

22 (b) These air ambulance providers may be nonparticipating providers;

23 (c) If these air ambulance providers are nonparticipating providers, the air
 24 ambulance services will be provided on an out-of-network basis;

25 (d) A description of the range of charges for the out-of-network air ambulance
 26 services for which the covered person may be responsible;

27 (e) A notification that the covered person or his or her authorized

1 representative may:

2 1. Agree to accept and pay the charges for the out-of-network air
3 ambulance services;

4 2. Contact the covered person's health benefit plan for additional
5 assistance; or

6 3. Rely on other rights and remedies that may be available under state or
7 federal law; and

8 (f) The covered person or his or her authorized representative may obtain a list
9 of participating air ambulance providers from the covered person's health
10 benefit plan and may request that those participating air ambulance
11 providers be accessed by the health care provider.

12 (3) (a) Before air ambulance services are utilized for the covered person, the
13 provider shall:

14 1. Supply the written disclosure required by this section; and

15 2. Obtain the covered person's or his or her authorized representative's
16 signature on the disclosure acknowledging receipt of the disclosure
17 document before the air ambulance services were accessed.

18 (b) If the provider is unable to supply the written disclosure or obtain the
19 signature required under this subsection, the provider shall document the
20 reason, which may include the health and safety of the patient. The
21 provider's documentation satisfies the requirement of this section.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
23 READ AS FOLLOWS:

24 An air ambulance provider, or an agent of an air ambulance provider, shall not sell,
25 solicit, or negotiate a subscription agreement or contract relating to services or the
26 billing of services provided by an air ambulance provider. An air ambulance provider,
27 or agent of an air ambulance provider, that violates this section shall be subject to any

1 available penalties under this chapter. In addition the air ambulance provider may be
2 fined by the commissioner of the Department of Insurance as an insurer under Section
3 7 of this Act.

4 ➔Section 4. KRS 216B.990 is amended to read as follows:

- 5 (1) Any person who, in willful violation of this chapter, operates a health facility or
6 abortion facility without first obtaining a license or continues to operate a health
7 facility or abortion facility after a final decision suspending or revoking a license
8 shall be fined not less than five hundred dollars (\$500) nor more than ten thousand
9 dollars (\$10,000) for each violation.
- 10 (2) Any person who, in willful violation of this chapter, acquires major medical
11 equipment, establishes a health facility, or obligates a capital expenditure without
12 first obtaining a certificate of need, or after the applicable certificate of need has
13 been withdrawn, shall be fined one percent (1%) of the capital expenditure involved
14 but not less than five hundred dollars (\$500) for each violation.
- 15 (3) Any hospital acting by or through its agents or employees which violates any
16 provision of KRS 216B.400 shall be punished by a fine of not less than one hundred
17 dollars (\$100) nor more than five hundred dollars (\$500).
- 18 (4) Any health facility which willfully violates KRS 216B.250 shall be fined one
19 hundred dollars (\$100) per day for failure to post required notices and one hundred
20 dollars (\$100) per instance for willfully failing to provide an itemized statement
21 within the required time frames.
- 22 (5) In addition to the civil penalties established under KRS 216B.306(1) and (4), any
23 person who advertises, solicits boarders, or operates a boarding home without first
24 obtaining a registration as required by KRS 216B.305 and any person who aids or
25 abets the operation of a boarding home that is not registered shall be imprisoned for
26 no more than twelve (12) months.
- 27 (6) Any person or entity establishing, managing, or operating an abortion facility or

1 conducting the business of an abortion facility which otherwise violates any
2 provision of this chapter or any administrative regulation promulgated thereunder
3 regarding abortion facilities shall be subject to revocation or suspension of the
4 license of the abortion facility. In addition, any violation of any provision of this
5 chapter regarding abortion facilities or any administrative regulation related thereto
6 by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or
7 by careless, negligent, or incautious disregard for the statute or administrative
8 regulation, either by persons acting individually or in concert with others, shall
9 constitute a violation and shall be punishable by a fine not to exceed one thousand
10 dollars (\$1,000) for each offense. Each day of continuing violation shall be
11 considered a separate offense. The venue for prosecution of the violation shall be in
12 any county of the state in which the violation, or any portion thereof, occurred.

13 (7) Any hospital acting by or through its agents or employees that violates any
14 provision of KRS 216B.150 shall be punished by a fine of not less than one hundred
15 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

16 **(8) Any facility required to be licensed pursuant to this chapter acting by or through**
17 **its agents or employees that violates Section 2 of this Act shall be punished by a**
18 **fine of not less than one hundred dollars (\$100) nor more than five hundred**
19 **dollars (\$500) for each violation.**

20 ➔Section 5. KRS 304.17A-254 is amended to read as follows:

21 An insurer that offers a health benefit plan that is not a managed care plan but provides
22 financial incentives for a covered person to access a network of providers shall:

23 (1) Notify the covered person, in writing, of the availability of a printed document, in a
24 manner consistent with KRS 304.14-420 to 304.14-450, containing the following
25 information at the time of enrollment and upon request:

26 (a) A current directory of the in-network providers from which the covered
27 person may access covered services at a financially beneficial rate. The

- 1 directory shall, at a minimum, provide the name, type of provider,
2 professional office address, telephone number, and specialty designations of
3 the network provider, if any; and
- 4 (b) In addition to making the information available in a printed document, an
5 insurer may also make the information available in an accessible electronic
6 format;
- 7 (2) **Ensure**~~[Assure]~~ that contracts with the providers in the network contain:
- 8 **(a)** A hold harmless agreement under which the covered person will not be
9 balanced billed by the in-network provider except for deductibles, co-pays,
10 coinsurance amounts, and noncovered benefits; **and**
- 11 **(b) A clause requiring the provider to comply with the requirements of Section**
12 **2 of this Act;**
- 13 (3) File with the department a copy of the directory required under subsection (1) of
14 this section;
- 15 (4) Have a process for the selection of health care providers who will be on the insurer's
16 list of participating providers, with written policies and procedures for review and
17 approval used by the insurer. The insurer shall establish minimum professional
18 requirements for participating health care providers. An insurer may not
19 discriminate against a provider solely on the basis of the provider's license by the
20 state;
- 21 (5) Not contract with a health care provider to limit the provider's disclosure to a
22 covered person, or to another person on behalf of a covered person, of any
23 information relating to the covered person's medical condition or treatment options;
- 24 (6) Not penalize a health care provider, or terminate a health care provider's contract
25 with the insurer, because the provider discusses medically necessary or appropriate
26 care with a covered person or another person on behalf of a covered person. The
27 health care provider may:

- 1 (a) Not be prohibited by the insurer from discussing all treatment options with the
2 covered person; and
- 3 (b) Disclose to the covered person or to another person on behalf of a covered
4 person other information determined by the health care provider to be in the
5 best interests of the covered person;
- 6 (7) Include in any agreements it enters into with providers for the provision of health
7 care services a clause stating that the insurer will, upon request of a health care
8 provider, provide or make available to a health care provider, when contracting or
9 renewing an existing contract with such provider, the payment or fee schedules or
10 other information sufficient to enable the health care provider to determine the
11 manner and amount of payments under the contract for the health care provider's
12 services prior to the final execution or renewal of the contract and shall provide any
13 change in such schedules at least ninety (90) days prior to the effective date of the
14 amendment pursuant to KRS 304.17A-577;
- 15 (8) Establish a policy governing the removal of and withdrawal by health care providers
16 from the provider network that includes the following:
- 17 (a) The insurer shall inform a participating health care provider of the insurer's
18 removal and withdrawal policy at the time the insurer contracts with the health
19 care provider to participate in the provider network, and when changed
20 thereafter;
- 21 (b) If a participating health care provider's participation will be terminated or
22 withdrawn prior to the date of the termination of the contract as a result of a
23 professional review action, the insurer and participating health care provider
24 shall comply with the standards in 42 U.S.C. sec. 11112; and
- 25 (c) If the insurer finds that a health care provider represents an imminent danger
26 to an individual patient or to the public health, safety, or welfare, the medical
27 director shall promptly notify the appropriate professional state licensing

1 board; and

2 (9) Meet all requirements provided under KRS 304.17A-600 to 304.17A-633 and KRS
3 304.17A-700 to 304.17A-730.

4 ➔Section 6. KRS 304.17A-527 is amended to read as follows:

5 (1) A managed care plan shall file with the commissioner sample copies of any
6 agreements it enters into with providers for the provision of health care services.
7 The commissioner shall promulgate administrative regulations prescribing the
8 manner and form of the filings required. The agreements shall include the
9 following:

10 (a) A hold harmless clause that states that the provider may not, under any
11 circumstance, including:

12 1. Nonpayment of moneys due the providers by the managed care plan,

13 2. Insolvency of the managed care plan, or

14 3. Breach of the agreement,

15 bill, charge, collect a deposit, seek compensation, remuneration, or
16 reimbursement from, or have any recourse against the subscriber, dependent
17 of subscriber, enrollee, or any persons acting on their behalf, for services
18 provided in accordance with the provider agreement. This provision shall not
19 prohibit collection of deductible amounts, copayment amounts, coinsurance
20 amounts, and amounts for noncovered services;

21 (b) A continuity of care clause that states that if an agreement between the
22 provider and the managed care plan is terminated for any reason, other than a
23 quality of care issue or fraud, the insurer shall continue to provide services
24 and the plan shall continue to reimburse the provider in accordance with the
25 agreement until the subscriber, dependent of the subscriber, or the enrollee is
26 discharged from an inpatient facility, or the active course of treatment is
27 completed, whichever time is greater, and in the case of a pregnant woman,

1 services shall continue to be provided through the end of the post-partum
2 period if the pregnant woman is in her fourth or later month of pregnancy at
3 the time the agreement is terminated;

4 (c) A survivorship clause that states the hold harmless clause and continuity of
5 care clause shall survive the termination of the agreement between the
6 provider and the managed care plan;

7 (d) A clause stating that the insurer issuing a managed care plan will, upon
8 request of a participating provider, provide or make available to a
9 participating provider, when contracting or renewing an existing contract with
10 such provider, the payment or fee schedules or other information sufficient to
11 enable the provider to determine the manner and amount of payments under
12 the contract for the provider's services prior to the final execution or renewal
13 of the contract and shall provide any change in such schedules at least ninety
14 (90) days prior to the effective date of the amendment pursuant to KRS
15 304.17A-577;~~and~~

16 (e) A clause requiring that if a provider enters into any subcontract agreement
17 with another provider to provide their licensed health care services to the
18 subscriber, dependent of the subscriber, or enrollee of a managed care plan
19 where the subcontracted provider will bill the managed care plan or subscriber
20 or enrollee directly for the subcontracted services, the subcontract agreement
21 must meet all requirements of this subtitle and that all such subcontract
22 agreements shall be filed with the commissioner in accordance with this
23 subsection; **and**

24 **(f) A clause requiring the provider to comply with Section 2 of this Act.**

25 (2) An insurer that offers a health benefit plan that enters into any risk-sharing
26 arrangement or subcontract agreement shall file a copy of the arrangement with the
27 commissioner. The insurer shall also file the following information regarding the

1 risk-sharing arrangement:

- 2 (a) The number of enrollees affected by the risk-sharing arrangement;
- 3 (b) The health care services to be provided to an enrollee under the risk-sharing
4 arrangement;
- 5 (c) The nature of the financial risk to be shared between the insurer and entity or
6 provider, including but not limited to the method of compensation;
- 7 (d) Any administrative functions delegated by the insurer to the entity or provider.
8 The insurer shall describe a plan to ensure that the entity or provider will
9 comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated
10 administrative functions; and
- 11 (e) The insurer's oversight and compliance plan regarding the standards and
12 method of review.

13 (3) Nothing in this section shall be construed as requiring an insurer to submit the
14 actual financial information agreed to between the insurer and the entity or provider.
15 The commissioner shall have access to a specific risk sharing arrangement with an
16 entity or provider upon request to the insurer. Financial information obtained by the
17 department shall be considered to be a trade secret and shall not be subject to KRS
18 61.872 to 61.884.

19 ➔Section 7. KRS 304.99-020 is amended to read as follows:

- 20 (1) For any violation of this code where the commissioner has the power to revoke or
21 suspend a license or certificate of authority, the commissioner may in lieu thereof or
22 in addition to such revocation or suspension impose a civil penalty against the
23 violator in the case of an insurer, a fraternal benefit society, nonprofit hospital,
24 medical-surgical, dental, and health service corporation, or health maintenance
25 organization of not more than ten thousand dollars (\$10,000) per violation; in the
26 case of an agent, surplus lines broker, rental vehicle agent or managing employee,
27 specialty credit producer or managing employee, or reinsurance intermediary broker

1 or manager of not more than one thousand dollars (\$1,000) per violation; in the case
 2 of an adjuster, administrator, life settlement broker, life settlement provider, or
 3 consultant of not more than two thousand dollars (\$2,000) per violation.

4 (2) **For a violation of Section 3 of this Act, the commissioner may impose a civil**
 5 **penalty against the air ambulance provider of not more than ten thousand dollars**
 6 **(\$10,000) per violation.**

7 (3) ~~Any~~~~Such~~ civil penalty **permitted by this section** may be recovered in an action
 8 brought ~~thereon~~ in the name of the Commonwealth of Kentucky in any court of
 9 appropriate jurisdiction.

10 (4)~~(3)~~ In any court action with respect to a civil penalty **permitted by subsection (1)**
 11 **of this section**, the court may review the penalty as to both liability and
 12 reasonableness of amount.

13 ➔Section 8. KRS 311A.060 is amended to read as follows:

14 (1) If it is determined that an entity regulated by the board, a paramedic, first responder,
 15 or emergency medical technician has violated a statute, administrative regulation,
 16 protocol, or practice standard relating to serving as an entity regulated by the board,
 17 a paramedic, first responder, or emergency medical technician, the office of the
 18 board may impose any of the sanctions provided in subsection (2) of this section.
 19 Any party to the complaint shall have the right to propose findings of fact and
 20 conclusions of law, and to recommend sanctions.

21 (2) The office of the board shall require an acceptable plan of correction and may use
 22 any one (1) or more of the following sanctions when disciplining a paramedic,
 23 emergency medical technician first responder, emergency medical technician, or any
 24 entity regulated by the board:

25 (a) Private reprimand that shall be shared with each of the paramedic's, first
 26 responder's, or emergency medical technician's emergency medical services or
 27 related employer and medical director;

- 1 (b) Public reprimand;
- 2 (c) Fines of fifty dollars (\$50) to five hundred dollars (\$500) for a natural person
3 or fifty dollars (\$50) to five thousand dollars (\$5,000) for a public agency or
4 business entity;
- 5 (d) Revocation of certification or licensure;
- 6 (e) Suspension of licensure until a time certain;
- 7 (f) Suspension until a certain act or acts are performed;
- 8 (g) Limitation of practice permanently;
- 9 (h) Limitation of practice until a time certain;
- 10 (i) Limitation of practice until a certain act or acts are performed;
- 11 (j) Repassing a portion of the paramedic, first responder, or emergency medical
12 technician examination;
- 13 (k) Probation for a specified time; or
- 14 (l) If it is found that the person who is licensed or certified by the board has been
15 convicted of, pled guilty to, entered an Alford plea to a felony offense, or has
16 completed a diversion program for a felony offense the license or certification
17 shall be revoked.
- 18 (3) The filing of criminal charges or a criminal conviction for violation of the
19 provisions of this chapter or the administrative regulations promulgated thereunder
20 shall not preclude the office of the board from instituting or imposing board
21 disciplinary action authorized by this chapter against any person or organization
22 violating this chapter or the administrative regulations promulgated thereunder.
- 23 (4) The institution or imposition of disciplinary action by the office of the board against
24 any person or organization violating the provisions of this chapter or the
25 administrative regulations promulgated thereunder shall not preclude the filing of
26 criminal charges against or a criminal conviction of any person or organization for
27 violation of the provisions of this chapter or the administrative regulations

1 promulgated thereunder.

2 **(5) If the board determines that an air ambulance provider has violated Section 3 of**
3 **this Act it shall send notification of the violation to the commissioner of the**
4 **Department of Insurance for possible imposition of a civil penalty under Section**
5 **7 of this Act.**

6 ➔Section 9. KRS 367.990 is amended to read as follows:

7 (1) Any person who violates the terms of a temporary or permanent injunction issued
8 under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of
9 not more than twenty-five thousand dollars (\$25,000) per violation. For the
10 purposes of this section, the Circuit Court issuing an injunction shall retain
11 jurisdiction, and the cause shall be continued, and in such cases the Attorney
12 General acting in the name of the Commonwealth may petition for recovery of civil
13 penalties.

14 (2) In any action brought under KRS 367.190, if the court finds that a person is
15 willfully using or has willfully used a method, act, or practice declared unlawful by
16 KRS 367.170, the Attorney General, upon petition to the court, may recover, on
17 behalf of the Commonwealth, a civil penalty of not more than two thousand dollars
18 (\$2,000) per violation, or where the defendant's conduct is directed at a person aged
19 sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000)
20 per violation, if the trier of fact determines that the defendant knew or should have
21 known that the person aged sixty (60) or older is substantially more vulnerable than
22 other members of the public.

23 (3) Any person with actual notice that an investigation has begun or is about to begin
24 pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys,
25 or falsifies documentary material is guilty of a Class A misdemeanor.

26 (4) Any person who, in response to a subpoena or demand as provided in KRS 367.240
27 or 367.250, intentionally falsifies or withholds documents, records, or pertinent

1 materials that are not privileged shall be subject to a fine as provided in subsection
2 (3) of this section.

3 (5) The Circuit Court of any county in which any plan described in KRS 367.350 is
4 proposed, operated, or promoted may grant an injunction without bond, upon
5 complaint filed by the Attorney General to enjoin the further operation thereof, and
6 the Attorney General may ask for and the court may assess civil penalties against
7 the defendant in an amount not to exceed the sum of five thousand dollars (\$5,000)
8 which shall be for the benefit of the Commonwealth of Kentucky.

9 (6) Any person, business, or corporation who knowingly violates the provisions of KRS
10 367.540 shall be guilty of a violation. It shall be considered a separate offense each
11 time a magazine is mailed into the state; but it shall be considered only one (1)
12 offense for any quantity of the same issue of a magazine mailed into Kentucky.

13 (7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty
14 of a Class A misdemeanor.

15 (8) In addition to the penalties contained in this section, the Attorney General, upon
16 petition to the court, may recover, on behalf of the Commonwealth a civil penalty of
17 not more than the greater of five thousand dollars (\$5,000) or two hundred dollars
18 (\$200) per day for each and every violation of KRS 367.175.

19 (9) Any person who shall willfully and intentionally violate any provision of KRS
20 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

21 (10) (a) Any person who violates the terms of a temporary or permanent injunction
22 issued under KRS 367.665 shall forfeit and pay to the Commonwealth a
23 penalty of not more than five thousand dollars (\$5,000) per violation. For the
24 purposes of this section, the Circuit Court issuing an injunction shall retain
25 jurisdiction, and the cause shall be continued, and in such cases the Attorney
26 General acting in the name of the Commonwealth may petition for recovery of
27 civil penalties;

- 1 (b) The Attorney General may, upon petition to a court having jurisdiction under
2 KRS 367.190, recover on behalf of the Commonwealth from any person
3 found to have willfully committed an act declared unlawful by KRS 367.667 a
4 penalty of not more than two thousand dollars (\$2,000) per violation; and
- 5 (c) Any person who knowingly violates any provision of KRS 367.652, 367.653,
6 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false
7 or incorrect information to the Attorney General in filing statements or reports
8 required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.
- 9 (11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under
10 KRS 367.765 shall be liable for a penalty of one hundred dollars (\$100) per
11 violation to be collected in the name of the Commonwealth upon action of the
12 Attorney General.
- 13 (12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be
14 liable for a penalty not exceeding one thousand dollars (\$1,000) to be collected in
15 the name of the Commonwealth upon action by the Attorney General.
- 16 (13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or
17 367.816 shall be guilty of a Class C felony.
- 18 (14) Either the Attorney General or the appropriate Commonwealth's attorney shall have
19 authority to prosecute violations of KRS 367.801 to 367.819.
- 20 (15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the
21 Attorney General or the appropriate Commonwealth's attorney shall have authority
22 to prosecute violators of KRS 367.474 to 367.478 and 367.482.
- 23 (16) Any person who violates KRS 367.310 shall be guilty of a violation.
- 24 (17) Any person, partnership, or corporation who violates the provisions of KRS
25 367.850 shall be guilty of a Class A misdemeanor.
- 26 (18) Any dealer in motor vehicles or any other person who fraudulently changes, sets
27 back, disconnects, fails to connect, or causes to be changed, set back, or

1 disconnected, the speedometer or odometer of any motor vehicle, to effect the sale
2 of the motor vehicle shall be guilty of a Class D felony.

3 (19) Any person who negotiates a contract of membership on behalf of a club without
4 having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty
5 of a Class D felony.

6 (20) Any person or corporation who operates or attempts to operate a health spa in
7 violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

8 (21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and
9 (b) The appropriate Commonwealth's attorney shall have authority to prosecute
10 felony violations of KRS 367.832.

11 (22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be
12 guilty of a violation. Either the Attorney General or the appropriate county
13 health department may prosecute violators of KRS 367.855 or 367.857.

14 (b) The provisions of this subsection shall not apply to any retail establishment if
15 the wholesaler, distributor, or processor fails to comply with the provisions of
16 KRS 367.857.

17 (23) Notwithstanding any other provision of law, any telemarketing company,
18 telemarketer, caller, or merchant shall be guilty of a Class D felony when that
19 telemarketing company, telemarketer, caller, or merchant three (3) times in one (1)
20 calendar year knowingly and willfully violates KRS 367.46955(15) by making or
21 causing to be made an unsolicited telephone solicitation call to a telephone number
22 that appears in the current publication of the zero call list maintained by the Office
23 of the Attorney General, Division of Consumer Protection.

24 (24) Notwithstanding any other provision of law, any telemarketing company,
25 telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when
26 that telemarketing company, telemarketer, caller, or merchant uses a zero call list
27 identified in KRS 367.46955(15) for any purpose other than complying with the

1 provisions of KRS 367.46951 to 367.46999.

- 2 (25) (a) Notwithstanding any other provision of law, any telemarketing company,
3 telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999
4 shall be assessed a civil penalty of not more than five thousand dollars
5 (\$5,000) for each offense.
- 6 (b) The Attorney General, or any person authorized to act in his or her behalf,
7 shall initiate enforcement of a civil penalty imposed under paragraph (a) of
8 this subsection.
- 9 (c) Any civil penalty imposed under paragraph (a) of this subsection may be
10 compromised by the Attorney General or his or her designated representative.
11 In determining the amount of the penalty or the amount agreed upon in
12 compromise, the Attorney General, or his or her designated representative,
13 shall consider the appropriateness of the penalty to the financial resources of
14 the telemarketing company, telemarketer, caller, or merchant charged, the
15 gravity of the violation, the number of times the telemarketing company,
16 telemarketer, caller, or merchant charged has been cited, and the good faith of
17 the telemarketing company, telemarketer, caller, or merchant charged in
18 attempting to achieve compliance, after notification of the violation.
- 19 (d) If a civil penalty is imposed under this subsection, a citation shall be issued
20 which describes the violation which has occurred and states the penalty for the
21 violation. If, within fifteen (15) working days from the receipt of the citation,
22 the affected party fails to pay the penalty imposed, the Attorney General, or
23 any person authorized to act in his or her behalf, shall initiate a civil action to
24 collect the penalty. The civil action shall be taken in the court which has
25 jurisdiction over the location in which the violation occurred.
- 26 (26) Any person who violates KRS 367.500 shall be liable for a penalty of two thousand
27 five hundred dollars (\$2,500) per violation. Either the Attorney General or the

- 1 appropriate Commonwealth's attorney may prosecute violations of KRS 367.500.
- 2 **(27) Any provider, other than a facility required to be licensed under KRS Chapter**
- 3 **216B, that fails to comply with Section 2 of this Act shall be liable for a penalty of**
- 4 **one hundred dollars (\$100) per violation to be collected in the name of the**
- 5 **Commonwealth upon action of the Attorney General.**
- 6 ➔Section 10. This Act takes effect on January 1, 2020.