

1 AN ACT relating to vehicle recyclers.

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

3 ➔Section 1. KRS 177.905 is amended to read as follows:

4 As used in KRS 177.910 to 177.950, unless the context otherwise requires:

- 5 (1) "Road" means any ~~county, state, federal or limited access~~ highway ***designated as***
6 ***a part of the national highway system, which includes the interstate highway***
7 ***system***~~or turnpike~~, including bridges and bridge approaches;~~[-]~~
- 8 (2) "Automobile, vehicle, or machinery ***recycler***~~recyclers~~" means any place where
9 five (5) or more junked, wrecked or nonoperative automobiles, vehicles, machines
10 and other similar scrap or salvage materials, excluding inoperative farm equipment,
11 are deposited, parked, placed or otherwise located, or any business as defined in
12 subsection (3) where ten (10) or more junked, wrecked or nonoperative
13 automobiles, vehicles, machines and other similar scrap or salvage materials are
14 deposited, parked, placed or otherwise located;~~[-]~~
- 15 (3) "Business" means any person engaged as an automobile dealer, body shop operator,
16 wrecker service operator, service station operator or other activity which may buy,
17 sell or repair nonoperative vehicles, automobiles or machinery as a service;~~[-]~~
- 18 (4) "Material ***recycler***~~recyclers~~" shall mean any establishment or place of business,
19 including garbage dumps and sanitary fills, maintained, operated, or used for
20 storing, keeping, buying or selling of old or scrap copper, brass, rope, rags,
21 batteries, paper, trash, rubber debris, waste, or motor vehicle parts, iron, steel, and
22 other old or scrap ferrous or nonferrous material;~~[-]~~
- 23 (5) "Operator or operators" means a person, firm or corporation operating an
24 automobile, vehicle, ***or*** machinery ***recycler***,~~or~~ material ***recycler***,~~recycling~~
25 ~~establishment~~ or ~~place of~~ business or the allowing of such automobile, vehicle, ***or***
26 machinery ***recycler***, or material ***recycler***,~~recycling establishment~~ or ~~place of~~
27 business to be placed or deposited, or to remain on premises owned or controlled by

1 such person, firm or corporation;~~;~~

2 (6) "Person" means any individual, firm, agency, company, association, partnership,
3 business trust, joint stock company, body politic or corporation; ~~and~~

4 (7) **"Commission" means the Kentucky Motor Vehicle Commission**~~["Department"~~
5 means the Department of Highways.

6 ~~(8) "Commissioner" means the commissioner of the Department of Highways].~~

7 ➔Section 2. KRS 177.910 is amended to read as follows:

8 **(1) A**~~No] person shall **not** operate or cause to be operated any automobile, vehicle, **or**
9 machinery **recycler,**~~or] material **recycler,**~~recycling establishment] or ~~place of]~~
10 business which is situated closer than one thousand (1,000) feet from the right-of-
11 way line of any road unless:~~~~~~

12 **(a)** A permit for ~~such] operation **has**~~shall have] been obtained from the
13 **commission**~~department]; **or**~~~~~~

14 **(b) An exemption has been granted in accordance with Section 3 of this Act.**

15 **(2)** The operation of any automobile, vehicle, **or** machinery **recycler,**~~or] material
16 **recycler,**~~recycling establishment] or ~~place of]~~ business **which meets the location**
17 **requirements of subsection (1) of this section**~~so situated] without a permit **or**
18 **exemption shall be considered**~~is hereby declared] to be a public nuisance.~~~~~~~~

19 ➔Section 3. KRS 177.912 is amended to read as follows:

20 **(1) An automobile, vehicle, or machinery recycler, material recycler, or business,**
21 **regardless of whether it is subject to permitting under Section 2 of this Act, shall**
22 **be subject to the ordinances, rules, and regulations enacted by the city, county,**
23 **urban-county government, consolidated local government, charter county**
24 **government, or unified local government in which it operates, including but not**
25 **limited to planning and zoning laws.**

26 **(2) For any automobile, vehicle, or machinery recycler, material recycler, or business**
27 **required to obtain a permit from the commission under Section 2 of this Act, the**

1 commission may exempt the recycler or business from the permit process if the
2 local government in which the recycler or business operates certifies that the
3 recycler or business complies as a conforming use in an industrially zoned area
4 under the applicable zoning ordinances and regulations. Any automobile, vehicle,
5 or machinery recycler, material recycler, or business granted a permit exemption
6 under this subsection shall not be deemed to be in violation of KRS 177.905 to
7 177.950.

8 (3) (a) Any automobile, vehicle, or machinery recycler, material recycler, or
9 business which holds a valid permit from the Department of Highways on
10 the effective date of this Act but is no longer subject to the permitting
11 authority of the commission shall be allowed to continue operation on that
12 site for which the permit was granted after the effective date of this Act.

13 (b) Any screening or other site or use restrictions imposed on an automobile,
14 vehicle, or machinery recycler, material recycler, or business by the
15 Department of Highways prior to the effective date of this Act shall remain
16 in place and in effect until the removal of the screening or restriction is
17 approved by:

18 1. A planning commission or board of adjustment within the jurisdiction,
19 if one exists;

20 2. The governing body of the city in which the automobile, vehicle, or
21 machinery recycler, material recycler, or business is located; or

22 3. The fiscal court of the county in which the automobile, vehicle, or
23 machinery recycler, material recycler, or business is located, if it is an
24 unincorporated area.

25 (c) Compliance with this subsection may be enforced by the county attorney for
26 the county in which the automobile, vehicle, or machinery recycler, material
27 recycler, or business is located~~[An automobile, vehicle or machinery~~

1 ~~recycling establishment or place of business or material recycling~~
 2 ~~establishment or place of business which complies as a conforming use in an~~
 3 ~~industrially zoned area under the applicable zoning ordinances and regulations~~
 4 ~~of any county or city, as determined in the discretion of the commissioner of~~
 5 ~~highways, shall not be deemed to be in violation of KRS 177.905 to 177.950}.~~

6 ➔Section 4. KRS 177.915 is amended to read as follows:

7 **(1)** The permit required by KRS 177.910 shall be issued~~[in accordance with the~~
 8 ~~administrative regulations of the department, promulgated pursuant to the~~
 9 ~~provisions of KRS 177.905 to 177.950,]~~ when it is shown to the satisfaction of the
 10 **commission**~~[commissioner]~~ that an automobile, vehicle, **or** machinery **recycler**,~~[or]~~
 11 material **recycler, or**~~[recycling establishment or place of]~~ business located closer
 12 than **one thousand** (1,000) feet from the right-of-way **boundary** line of any road is~~],~~
 13 ~~so far as deemed practical by the secretary,]~~ hidden from the view of motorists
 14 using **the**~~[such]~~ road by:

15 **(a)** An artificial or natural screen;~~];~~ or ~~[is by]~~

16 **(b)** Virtue of **the location's** natural topography~~[so hidden].~~

17 **(2)** The screening required in this section may be effected by:

18 **(a)** The construction of a fence;~~];~~ or ~~by]~~

19 **(b)** Planting shrubs, trees, or flowering plants, the foliage of which shall,
 20 immediately upon planting, provide a sufficient screen;~~];~~ or ~~by]~~

21 **(c)** Making use of foliage already in existence.

22 **(3)** Any automobile, vehicle, **or** machinery **recycler**,~~[or]~~ material **recycler, or**~~[recycling~~
 23 ~~establishment or place of]~~ business that cannot as a practical matter be screened~~];~~
 24 shall **not be granted a permit and shall** be required to be removed.

25 ➔Section 5. KRS 177.920 is amended to read as follows:

26 **(1)** The **commission may**~~[commissioner is hereby directed to]~~ charge a fee of fifty
 27 dollars (\$50) for the issuance of a permit required **under Section 2 of this Act**~~[by]~~

1 ~~KRS 177.915].~~

2 **(2)** ~~The~~ ~~[Such]~~ permit shall be valid ~~[effective]~~ for a two (2) year period beginning July
3 1, 1962, through June 30, 1964, and each two (2) year period thereafter.

4 **(3)** Proceeds from ~~[such]~~ fees charged under this section shall be paid to the State
5 Treasurer and hereby are appropriated to the state road fund.

6 ➔Section 6. KRS 177.925 is amended to read as follows:

7 ~~If~~ ~~[Where]~~ the commission ~~[commissioner]~~ has reasonable cause to doubt the financial
8 responsibility of the operator or compliance by the operator with the provisions of KRS
9 177.905 to 177.950, the commission ~~[commissioner]~~ may require the ~~[such]~~ operator to
10 furnish and maintain a bond of ~~[in such form, amount, and with such sureties as he shall~~
11 ~~approve, but not less than one thousand dollars (\$1,000) nor more than]~~ five thousand
12 dollars (\$5,000) conditioned upon the operator complying with the provisions of KRS
13 177.905 to 177.950 and the administrative regulations promulgated in accordance with
14 Section 7 of this Act ~~[adopted pursuant thereto]~~. Any bond forfeiture is hereby
15 appropriated to the state road fund.

16 ➔Section 7. KRS 177.935 is amended to read as follows:

17 The commission shall ~~[department is hereby empowered to]~~:

18 (1) Exercise general supervision of the administration and enforcement of KRS
19 177.905 to 177.950.

20 (2) Promulgate, pursuant to KRS Chapter 13A, administrative regulations establishing:

21 **(a)** Standards pertaining to the operation of automobile, vehicle, or machinery
22 recyclers, ~~[or]~~ material recyclers, or businesses ~~[recycling establishments or~~
23 ~~places of business]~~ as the commission determines are ~~[commissioner may~~
24 ~~deem]~~ necessary to administer and enforce ~~[the administration and~~
25 ~~enforcement of]~~ KRS 177.905 to 177.950; ~~[.]~~

26 **(b)** Standards ~~[(3) Promulgate administrative regulations]~~ with respect to the
27 sufficiency, type of material or foliage, height, density, and size of screening

1 required by KRS 177.915 to insure the accomplishment of the purposes of
2 KRS 177.905 to 177.950; and[-]

3 (c) Forms and procedures for administrative[(4)] — Promulgate administrative
4 regulations with respect to the procedural aspects of] hearings, in accordance
5 with[supplemental to] KRS Chapter 13B, the filing of reports and orders, the
6 issuance of permits, and other procedural matters.

7 (3)[(5)] Issue, after an administrative hearing in accordance with KRS Chapter 13B,
8 final orders;

9 (a) Abating the operation of an automobile, vehicle, or machinery recycler, [or]
10 material recycler, or[recycling establishments or places of] business in
11 violation of the provisions of KRS 177.905 to 177.950;[-] or

12 (b) Requiring the adoption of remedial measures including the construction or
13 planting of screens or the utilization of natural screening, extension,
14 modification, or addition to new or existing screens.

15 (4)[(6)] Issue, continue in effect, revoke, modify, or deny under conditions as the
16 commission[department] may prescribe and subject to an administrative[a] hearing
17 in accordance with KRS Chapter 13B, permits for the operation of an automobile,
18 vehicle, or machinery recycler, [or] material recycler, or[recycling establishments
19 or places of] business.

20 (5)[(7)] Make investigations or inspections which are[may be deemed] necessary[- by
21 the commissioner] to insure compliance with the provisions of KRS 177.905 to
22 177.950, or with any administrative regulations or final orders of the
23 commission[department which may be deemed necessary to enable the department
24 to administer and enforce the provisions of KRS 177.905 to 177.950].

25 (6)[(8)] Institute in a court of competent jurisdiction procedures, including injunctive
26 relief, to compel compliance with the provisions of KRS 177.905 to 177.950, and
27 with the final orders and administrative regulations of the commission[issued

1 ~~pursuant thereto~~.

2 ~~(7)(9)~~ **Have the authority for its employees or agents to** enter, at any reasonable
3 time, ~~[through any officer, assistant, agent, or employee in or upon]~~ any public or
4 private property for the purpose of investigation and inspection of conditions
5 relating to the operation of any automobile, vehicle, **or** machinery **recycler**, ~~[or]~~
6 material **recycler, or** ~~[recycling establishments or places of]~~ business.

7 ~~(8)(10)~~ Perform any other acts as may be necessary, proper, or desirable in order to
8 carry out effectively the duties and responsibilities of the **commission** ~~[department]~~
9 prescribed in KRS 177.905 to 177.950.

10 ➔ Section 8. KRS 177.950 is amended to read as follows:

11 Any aggrieved party may appeal the final order of the **commission** ~~[department]~~ following
12 **an administrative** ~~[the]~~ hearing to the Circuit Court of the county in which the alleged
13 offense occurred, in accordance with KRS Chapter 13B.

14 ➔ Section 9. The following KRS section is repealed:

15 177.940 Hearings.