

1 AN ACT relating to air quality monitoring.

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

3 ➔Section 1. KRS 77.155 is amended to read as follows:

4 (1) A person shall not, nor shall an agent or employee of a person, nor shall a person as  
5 agent or employee of another, discharge into the atmosphere from any single source  
6 of emission whatsoever, any air contaminant in quantities and for a period or  
7 periods in excess of applicable emission standards established by regulation by the  
8 air pollution control board. Exceeding these standards shall constitute a rebuttable  
9 presumption of violation of this section.

10 (2) A person shall not, nor shall an agent or employee of a person, nor shall a person as  
11 agent or employee of another, discharge from any source whatsoever such  
12 quantities of air contaminants or other material which cause injury, detriment,  
13 nuisance, or annoyance to any considerable number of persons or to the public or  
14 which endanger the comfort, repose, health, or safety of any such persons or the  
15 public or which cause or have a natural tendency to cause injury or damage to  
16 business or property. The board shall have power, by regulation, to fix reasonable  
17 limits, by weight or otherwise, for particular air contaminants or other material  
18 which in the opinion of said board may cause or have tendency to cause injury,  
19 detriment, nuisance, or annoyance to any considerable number of persons or to the  
20 public. Exceeding such limits shall be a rebuttable presumption of violation of this  
21 section.

22 **(3) (a) *For purposes of enforcing compliance with the applicable requirements of***  
23 ***this chapter, the administrative regulations promulgated thereunder, or any***  
24 ***requirement of the federal Clean Air Act, 42 U.S.C. sec. 7401 et seq., for***  
25 ***which the air pollution control board has primary enforcement authority,***  
26 ***an enforcement action alleging violations or noncompliance shall be based***  
27 ***on:***

1            1. A data collection method, emissions test, or monitoring method that  
 2            has been approved or promulgated by the United States  
 3            Environmental Protection Agency; or

4            2. A method or test that produces scientifically defensible and quality-  
 5            assured data that is accepted by the United States Environmental  
 6            Protection Agency for enforcement purposes.

7            (b) Any data collected using a method that does not meet the requirements of  
 8            paragraph (a) of this subsection shall not be admissible or considered in  
 9            any enforcement proceeding initiated by the air pollution control board, an  
 10           air pollution control officer, or a private citizen.

11           ➔Section 2. KRS 77.160 is amended to read as follows:

12           The provisions of KRS 77.155(1) and (2) shall not be applicable:

13           (1) To buildings used exclusively for single owner-occupied private residences.

14           However, the provisions of KRS 77.155 shall be fully effective and applicable if a  
 15           renovation, demolition, or cleanup of a building may cause a disturbance of  
 16           asbestos material and:

17           (a) The building is one (1) of a group of buildings consisting of more than one (1)  
 18           building under common control; or

19           (b) At the time of the renovation, demolition, or cleanup, the use of the building  
 20           or the property is commercial or is not known. To all larger residential  
 21           buildings of whatever type, KRS 77.155 shall be effective and applicable;

22           (2) When a firebox, furnace, boiler, locomotive, or other fuel-consuming device is  
 23           being cleaned out and a new fire is being built therein, in which event a smoke of a  
 24           density as great or greater than that established by regulation by the air pollution  
 25           control board shall be permitted for a period not to exceed six (6) minutes in any  
 26           single period of sixty (60) minutes;

27           (3) To equipment used for agricultural operations in the growing of crops, or raising of

1 fowl or animals;

2 (4) To smoke from fires set by or permitted by any public officer if such fire is set or  
3 permission given in the performance of the official duty of such officer for the  
4 purpose of weed abatement, the prevention of a fire or health hazard, or the  
5 instruction of public employees in the methods of fighting fire, which is, in the  
6 opinion of such officer, necessary.

7 ➔Section 3. KRS 224.20-110 is amended to read as follows:

8 (1) No person shall, directly or indirectly, emit into or discharge into the air under the  
9 jurisdiction of the Commonwealth, or cause, permit, or allow to be emitted or  
10 discharged into such air any contaminants as provided for in subsection (1) of KRS  
11 224.1-010 that shall cause or contribute to the pollution of the air of the  
12 Commonwealth in contravention of the emission standards or the ambient air  
13 standards adopted by the cabinet, or in contravention of any of the rules,  
14 regulations, or orders of the cabinet, or in contravention of any of the provisions of  
15 this chapter.

16 (2) (a) For purposes of enforcing compliance with the applicable requirements of  
17 this chapter, the administrative regulations promulgated thereunder, or any  
18 requirement of the federal Clean Air Act, 42 U.S.C. sec. 7401 et seq., for  
19 which the cabinet has primary enforcement authority, an enforcement  
20 action alleging violations or noncompliance shall be based on:

21 1. A data collection method, emissions test, or monitoring method that  
22 has been approved or promulgated by the United States  
23 Environmental Protection Agency; or

24 2. A method or test that produces scientifically defensible and quality-  
25 assured data that is accepted by the United States Environmental  
26 Protection Agency for enforcement purposes.

27 (b) Any data collected using a method that does not meet the requirements of

1                    *paragraph (a) of this subsection shall not be admissible or considered in*  
2                    *any enforcement proceeding initiated by the cabinet or a private citizen.*

3     **(3)** For the purpose of fostering willing compliance with the emission standards and the  
4                    ambient air standards adopted by the cabinet, the cabinet shall promulgate and  
5                    implement administrative regulations which give effect to *42 U.S.C sec.*~~[Section]~~  
6                    ~~7412(i)(5)[ of Title 42, United States Code]~~, relating to alternative emission  
7                    limitations allowed for early reduction of emissions. The program established by  
8                    this subsection shall be conducted strictly in accordance with the federal law.