

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 determining compliance with this chapter, the**  
23 **administrative regulations promulgated thereunder, or any requirement of**  
24 **the federal Clean Air Act, 42 U.S.C. sec. 7401 et seq., for which the air**  
25 **pollution control board has primary enforcement authority, only the most**  
26 **current version of the applicable data collection method, emissions test, or**  
27 **monitoring method that has been approved or promulgated by the United**

1                   States Environmental Protection Agency shall be used.  
2                   (b) Any data collected using a method that does not meet the requirements of  
3                   paragraph (a) of this subsection shall not be admissible or considered in  
4                   any enforcement proceeding initiated by the air pollution control board, an  
5                   air pollution control officer, or a private citizen.

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

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

8                   (1) To buildings used exclusively for single owner-occupied private residences.  
9                   However, the provisions of KRS 77.155 shall be fully effective and applicable if a  
10                  renovation, demolition, or cleanup of a building may cause a disturbance of  
11                  asbestos material and:

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

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

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

22                  (3) To equipment used for agricultural operations in the growing of crops, or raising of  
23                  fowl or animals;

24                  (4) To smoke from fires set by or permitted by any public officer if such fire is set or  
25                  permission given in the performance of the official duty of such officer for the  
26                  purpose of weed abatement, the prevention of a fire or health hazard, or the  
27                  instruction of public employees in the methods of fighting fire, which is, in the

1 opinion of such officer, necessary.

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

3 (1) No person shall, directly or indirectly, emit into or discharge into the air under the  
4 jurisdiction of the Commonwealth, or cause, permit, or allow to be emitted or  
5 discharged into such air any contaminants as provided for in subsection (1) of KRS  
6 224.1-010 that shall cause or contribute to the pollution of the air of the  
7 Commonwealth in contravention of the emission standards or the ambient air  
8 standards adopted by the cabinet, or in contravention of any of the rules,  
9 regulations, or orders of the cabinet, or in contravention of any of the provisions of  
10 this chapter.

11 (2) (a) For purposes of determining compliance with this chapter, the  
12 administrative regulations promulgated thereunder, or any requirement of  
13 the federal Clean Air Act, 42 U.S.C. sec. 7401 et seq., for which the cabinet  
14 has primary enforcement authority, only the most current version of the  
15 applicable data collection method, emissions test, or monitoring method that  
16 has been approved or promulgated by the United States Environmental  
17 Protection Agency shall be used.

18 (b) Any data collected using a method that does not meet the requirements of  
19 paragraph (a) of this subsection shall not be admissible or considered in  
20 any enforcement proceeding initiated by the cabinet or a private citizen.

21 (3) For the purpose of fostering willing compliance with the emission standards and the  
22 ambient air standards adopted by the cabinet, the cabinet shall promulgate and  
23 implement administrative regulations which give effect to 42 U.S.C. sec.~~[Section]~~  
24 ~~7412(i)(5) [of Title 42, United States Code]~~, relating to alternative emission  
25 limitations allowed for early reduction of emissions. The program established by  
26 this subsection shall be conducted strictly in accordance with the federal law.