

1 AN ACT relating to recyclers.

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

3 ➔Section 1. KRS 177.905 is repealed, reenacted as a new section of KRS Chapter
4 190, and amended to read as follows:

5 As used in **Sections 1 to 9 of this Act**~~[KRS 177.910 to 177.950]~~, unless the context
6 otherwise requires:

- 7 (1) "Road" means any county, state, federal or limited access highway or turnpike,
8 including bridges and bridge approaches;~~[-]~~
- 9 (2) "Automobile, vehicle₂ or machinery recyclers" means any place where five (5) or
10 more junked, wrecked or nonoperative automobiles, vehicles, machines and other
11 similar scrap or salvage materials, excluding inoperative farm equipment, are
12 deposited, parked, placed or otherwise located, or any business as defined in
13 subsection (3) where ten (10) or more junked, wrecked or nonoperative
14 automobiles, vehicles, machines and other similar scrap or salvage materials are
15 deposited, parked, placed or otherwise located;~~[-]~~
- 16 (3) "Business" means any person engaged as an automobile dealer, body shop operator,
17 wrecker service operator, service station operator or other activity which may buy,
18 sell or repair nonoperative vehicles, automobiles or machinery as a service;~~[-]~~
- 19 (4) "Material recyclers" ***means***~~[shall mean]~~ any establishment or place of business,
20 including garbage dumps and sanitary fills, maintained, operated, or used for
21 storing, keeping, buying or selling of old or scrap copper, brass, rope, rags,
22 batteries, paper, trash, rubber debris, waste, or motor vehicle parts, iron, steel, and
23 other old or scrap ferrous or nonferrous material;~~[-]~~
- 24 (5) "Operator or operators" means a person, firm or corporation operating an
25 automobile, vehicle, machinery or material recycling establishment or place of
26 business or the allowing of such automobile, vehicle, machinery or material
27 recycling establishment or place of business to be placed or deposited, or to remain

1 on premises owned or controlled by 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" ~~["Department"]~~ means the Motor Vehicle Commission ~~[Department~~
5 ~~of Highways]~~.

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

7 ➔Section 2. KRS 177.910 is repealed, reenacted as a new section of KRS Chapter
8 190, and amended to read as follows:

9 A person shall not ~~[No person shall]~~ operate or cause to be operated any automobile,
10 vehicle, machinery, or material recycling establishment or place of business which is
11 situated closer than one thousand (1,000) feet from the right-of-way line of any road
12 unless a license ~~[permit]~~ for the ~~[such]~~ operation has been ~~[shall have been]~~ obtained from
13 the commission ~~[department]~~. The operation of any automobile, vehicle, machinery, or
14 material recycling establishment or place of business so situated without a
15 license ~~[permit]~~ is hereby declared to be a public nuisance.

16 ➔Section 3. KRS 177.912 is repealed, reenacted as a new section of KRS Chapter
17 190, and amended to read as follows:

18 An automobile, vehicle, or machinery recycling establishment or place of business or
19 material recycling establishment or place of business which complies as a conforming use
20 in an industrially zoned area under the applicable zoning ordinances and regulations of
21 any county or city, as determined in the discretion of the commission ~~[commissioner of~~
22 ~~highways]~~, shall not be deemed to be in violation of Sections 1 to 9 of this Act ~~[KRS~~
23 ~~177.905 to 177.950]~~.

24 ➔Section 4. KRS 177.915 is repealed, reenacted as a new section of KRS Chapter
25 190, and amended to read as follows:

26 (1) The commission shall promulgate administrative regulations in accordance with
27 KRS Chapter 13A to establish that the license required under Section 2 of this

1 *Act shall be issued*~~[The permit required by KRS 177.910 shall be issued in~~
 2 ~~accordance with the administrative regulations of the department, promulgated~~
 3 ~~pursuant to the provisions of KRS 177.905 to 177.950,]~~ when it is shown to the
 4 satisfaction of the *commission*~~[commissioner]~~ that an automobile, vehicle,
 5 machinery, or material recycling establishment or place of business located closer
 6 than 1,000 feet from the right-of-way line of any road is, so far as deemed practical
 7 by the *commission*~~[secretary]~~, hidden from the view of motorists using *the*~~[such]~~
 8 road by an artificial or natural screen, or is *hidden* by virtue of natural topography
 9 ~~[so hidden].~~

10 **(2)** The screening required in this section may be effected by the construction of a
 11 fence, or by planting shrubs, trees, or flowering plants, the foliage of which shall,
 12 immediately upon planting, provide a sufficient screen or by making use of foliage
 13 already in existence.

14 **(3)** Any automobile, vehicle, machinery, or material recycling establishment or place of
 15 business that cannot as a practical matter be screened~~[,]~~ shall be required to be
 16 removed.

17 ➔Section 5. KRS 177.920 is repealed, reenacted as a new section of KRS Chapter
 18 190, and amended to read as follows:

19 The *commission*~~[commissioner]~~ is hereby directed to charge a fee of *five-hundred*
 20 *dollars (\$500)*~~[fifty dollars (\$50)]~~ for the issuance of a *license required under Section 2*
 21 *of this Act*~~[permit required by KRS 177.915]. *The license shall be effective for one (1)*~~
 22 *calendar year*~~[Such permit shall be effective for a two (2) year period beginning July 1,~~
 23 ~~1962, through June 30, 1964, and each two (2) year period thereafter].~~ Proceeds from
 24 *the*~~[such]~~ fees shall be paid to the State Treasurer and hereby are appropriated to the
 25 *commission pursuant to KRS 190.058(10)*~~[state road fund].~~

26 ➔Section 6. KRS 177.925 is repealed, reenacted as a new section of KRS Chapter
 27 190, and amended to read as follows:

1 Where the commission~~[commissioner]~~ has reasonable cause to doubt the financial
 2 responsibility of the operator or compliance by the operator with the provisions of
 3 Sections 1 to 9 of this Act~~[KRS 177.905 to 177.950]~~, the commission~~[commissioner]~~
 4 may require the~~[such]~~ operator to furnish and maintain a bond in the~~[such]~~ form, amount,
 5 and with the~~[such]~~ sureties as it~~[he]~~ shall approve, but not less than one thousand dollars
 6 (\$1,000) nor more than five thousand dollars (\$5,000) conditioned upon the operator
 7 complying with the provisions of Sections 1 to 9 of this Act~~[KRS 177.905 to 177.950]~~
 8 and the regulations adopted pursuant thereto. Any bond forfeiture is hereby appropriated
 9 to the commission~~[state road fund]~~.

10 ➔Section 7. KRS 177.935 is repealed, reenacted as a new section of KRS Chapter
 11 190, and amended to read as follows:

12 The commission~~[department]~~ is hereby empowered to:

- 13 (1) Exercise general supervision of the administration and enforcement of Sections 1 to
 14 9 of this Act~~;~~~~[KRS 177.905 to 177.950.]~~
- 15 (2) Promulgate~~[-, pursuant to KRS Chapter 13A,]~~ administrative regulations in
 16 accordance with KRS Chapter 13A pertaining to the operation of automobile,
 17 vehicle, machinery, or material recycling establishments or places of business as the
 18 commissioner may deem necessary to the administration and enforcement of
 19 Sections 1 to 9 of this Act~~;~~~~[KRS 177.905 to 177.950.]~~
- 20 (3) Promulgate administrative regulations in accordance with KRS Chapter 13A with
 21 respect to the sufficiency, type of material or foliage, height, density, and size of
 22 screening required by Section 4 of this Act~~[KRS 177.915]~~ to ensure~~[insure]~~ the
 23 accomplishment of the purposes of Sections 1 to 9 of this Act~~;~~~~[KRS 177.905 to~~
 24 ~~177.950.]~~
- 25 (4) Promulgate administrative regulations in accordance with KRS Chapter 13A with
 26 respect to the procedural aspects of hearings conducted in accordance with~~[-,~~
 27 ~~supplemental to]~~ KRS Chapter 13B, the filing of reports and orders, the issuance of

- 1 licenses~~[permits]~~ and other matters;~~[-]~~
- 2 (5) Issue, after hearing, final orders abating the operation of an automobile, vehicle,
3 machinery, or material recycling establishments or places of business in violation of
4 the provisions of Sections 1 to 9 of this Act~~[KRS 177.905 to 177.950]~~, or requiring
5 the adoption of remedial measures including the construction or planting of screens
6 or the utilization of natural screening, extension, modification, or addition to new or
7 existing screens;~~[-]~~
- 8 (6) Issue, continue in effect, revoke, modify, or deny under conditions as the
9 commission~~[department]~~ may prescribe and subject to a hearing in accordance with
10 KRS Chapter 13B, licenses~~[permits]~~ for the operation of an automobile, vehicle,
11 machinery, or material recycling establishments or places of business;~~[-]~~
- 12 (7) Make investigations or inspections which may be deemed necessary by the
13 commission~~[commissioner]~~ to ensure~~[insure]~~ compliance with the provisions of
14 Sections 1 to 9 of this Act~~[KRS 177.905 to 177.950]~~, or with any administrative
15 regulations or orders of the department which may be deemed necessary to enable
16 the commission~~[department]~~ to administer and enforce the provisions of Sections 1
17 to 9 of this Act~~;~~~~[KRS 177.905 to 177.950.]~~
- 18 (8) Institute in a court of competent jurisdiction procedures, including injunctive relief,
19 to compel compliance with the provisions of Sections 1 to 9 of this Act~~[KRS~~
20 ~~177.905 to 177.950]~~ and with the final orders and administrative regulations issued
21 pursuant thereto;~~[-]~~
- 22 (9) Enter at any reasonable time through any officer, assistant, agent, or employee in or
23 upon any public or private property for the purpose of investigation and inspection
24 of conditions relating to the operation of any automobile, vehicle, machinery, or
25 material recycling establishments or places of business; and~~[-]~~
- 26 (10) Perform any other acts as may be necessary, proper, or desirable in order to carry
27 out effectively the duties and responsibilities of the commission~~[department]~~

1 prescribed in Sections 1 to 9 of this Act KRS 177.905 to 177.950.

2 ➔Section 8. KRS 177.940 is repealed, reenacted as a new section of KRS Chapter
3 190, and amended to read as follows:

4 (1) (a) Public hearings shall be conducted in accordance with KRS Chapter 13A by
5 the commission~~[department]~~ prior to the promulgation of any administrative
6 regulations which pertain to the prevention, abatement, or control of
7 automobile, vehicle, machinery, or material recycling establishments or places
8 of business.

9 (b) Administrative hearings shall be conducted in accordance with KRS Chapter
10 13B before the issuance of any final order prohibiting the performance by any
11 person of any act or acts deemed to be in contravention of any administrative
12 regulations, orders, or licenses~~[permits]~~ of the department; or before denial,
13 revocation, or modification of any license~~[permit]~~ provided for by Sections 1
14 to 9 of this Act~~[KRS 177.905 to 177.950]~~; or before any other final
15 determination is made by the department which directly affects the activities
16 of any person.

17 (2) The commission~~[department]~~ shall grant an administrative hearing to any person,
18 not previously heard in connection with the issuance of any order or the making of
19 any determination, who may consider himself or herself aggrieved by any order or
20 determination and who shall file with the department a verified petition alleging
21 that the order or determination is contrary to law or that is injurious to him or her,
22 stating the grounds and reasons therefor and requesting a hearing thereon. The
23 hearing shall be conducted in accordance with KRS Chapter 13B.

24 ➔Section 9. KRS 177.950 is repealed and reenacted as a new section of KRS
25 Chapter 190 to read as follows:

26 Any aggrieved party may appeal the final order of the department following the hearing
27 to the Circuit Court of the county in which the alleged offense occurred in accordance

1 with KRS Chapter 13B.