

1 AN ACT relating to recyclers and declaring an emergency.

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

3 ➔Section 1. KRS 433.900 is amended to read as follows:

4 As used in **Sections 1 to 12 of this Act**~~[KRS 433.900 to 433.906]~~, unless the context
5 otherwise requires:

6 (1) "Applicant" means a secondary metals recycler seeking an application for a **license**
7 **with the commission**~~[certificate of registration with the Department of Professional~~
8 ~~Licensing of the Public Protection Cabinet, as provided in KRS 433.902]~~. If the
9 secondary metals recycler is owned by a corporation, limited liability company,
10 partnership, limited partnership, incorporated association, or any other entity
11 organized for the purpose of engaging in business as a secondary metals recycler,
12 "applicant" means the officers of these entities;

13 (2) **"Commission" means the Motor Vehicle Commission;**

14 **(3)** "Ferrous metals" means any metal containing significant quantities of iron or steel;

15 ~~**(4)**~~~~**(3)**~~ **"Name-based background check" means a statewide search of the**
16 **centralized criminal history record information system by the Department of**
17 **Kentucky State Police, utilizing the name, date of birth, and Social Security**
18 **number of the applicant;**

19 **(5)** "Nonferrous metals" means metal not containing significant quantities of iron,
20 including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and
21 alloys thereof, **such as any copper or bronze wire, power inverters, bars, pipes,**
22 **rods, tubing, and wire or cable or coaxial cable of the type used by public utilities,**
23 **common carriers, or telecommunication services providers;**

24 ~~**(6)**~~~~**(4)**~~ ~~"Name-based background check" means a statewide search of the centralized~~
25 ~~criminal history record information system by the Department of Kentucky State~~
26 ~~Police, utilizing the name, date of birth, and Social Security number of the~~
27 ~~applicant;~~

1 ~~(5)~~ "Restricted metals" means any of the following metal items:

- 2 (a) Manhole covers;
- 3 (b) Electric light poles or other utility poles;
- 4 (c) Guardrails;
- 5 (d) Street signs, traffic signs, or traffic signals;
- 6 (e) Whole road tiles;
- 7 (f) Funeral markers or funeral vases;
- 8 (g) Railroad equipment, including but not limited to a tie plate, signal house,
- 9 control box, switch plate, e-clip, or rail tie junction;
- 10 (h) Condensing or evaporating coils made from copper, aluminum, or aluminum-
- 11 copper, including the tubing or rods from a heating or air conditioning unit
- 12 that is not from a window air conditioning unit or automobile air conditioning
- 13 unit;
- 14 (i) Stainless steel beer kegs;
- 15 (j) A catalytic converter or any nonferrous part of a catalytic converter unless
- 16 purchased as part of a vehicle; or
- 17 (k) Storm drain covers; and

18 ~~(7)~~~~(6)~~ (a) "Secondary metals recycler" means:

- 19 1. Any person who is engaged in the business of gathering or obtaining
- 20 ferrous or nonferrous metals that have served their original economic
- 21 purpose or is in the business of performing the manufacturing process
- 22 by which ferrous metals or nonferrous metals are converted into raw
- 23 material products consisting of prepared grades and having an existing
- 24 or potential monetary value;
- 25 2. Any person who has facilities for performing the manufacturing process
- 26 by which ferrous metals or nonferrous metals are converted into raw
- 27 material products consisting of prepared grades and having an existing

1 or potential monetary value, other than by the exclusive use of hand
2 tools, by methods including but not limited to processing, sorting,
3 cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or
4 changing the physical form or chemical content thereof; or

5 3. Any recycler, dealer in junk or metals, dealer in secondhand articles,
6 vendor of bottles or rags, or collector of or dealer in articles found in
7 ashes, garbage, or other refuse, whether a dealer, collector, or vendor
8 operates an established place of business or an itinerant business.

9 (b) "Secondary metals recycler" shall not include a municipal solid waste
10 department or any entity which has been issued a municipal solid waste
11 transporter license by the ~~[Kentucky]~~ Transportation Cabinet and which
12 gathers or obtains ferrous or nonferrous metals in a vehicle registered in
13 Kentucky to transport solid waste.

14 ➔SECTION 2. KRS 433.902 IS REPEALED AND REENACTED TO READ
15 AS FOLLOWS:

16 **A person shall not engage or attempt to engage in business in this Commonwealth as a**
17 **secondary metals recycler unless licensed in accordance with Sections 1 to 12 of this**
18 **Act.**

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
20 READ AS FOLLOWS:

21 **(1) An applicant for licensure as a secondary metals recycler shall file a written**
22 **application under oath on a form provided by the commission. An applicant who**
23 **owns more than one (1) secondary metals recycling location shall file an**
24 **application for each location. Upon approval of the application and payment of**
25 **the application fee, the commission shall issue a license to the applicant.**

26 **(2) Any person listed on an application for a secondary metals recycler business**
27 **license shall be at least eighteen (18) years of age prior to the date the application**

1 is submitted.

2 (3) (a) Prior to approval of the application, the commission shall require a name-
3 based background check on each applicant.

4 (b) Each applicant shall provide written authorization to the Department of
5 Kentucky State Police to perform a name-based background check and
6 release the results to the commission.

7 (c) Any request for a name-based background check shall be on a form or
8 through a process approved by the Department of Kentucky State Police,
9 which may charge a fee to be paid by the applicant in an amount no greater
10 than the actual cost of processing the request.

11 (d) The commission shall not issue a license to an applicant if the name-based
12 background check results reveal that within the last five (5) years the
13 applicant has been convicted of, or entered a plea of guilty, an Alford plea,
14 or a plea of nolo contendere to, a felony involving theft, larceny, dealing in
15 stolen property, receiving stolen property, burglary, embezzlement, or
16 obtaining property by false pretenses, any felony drug offense, or
17 intentionally violating the laws of the Commonwealth relating to licensure
18 as a secondary metals recycler.

19 (4) The application for a license shall be in a form prescribed by the commission and
20 shall contain at a minimum the following:

21 (a) The name, address, and telephone number of the secondary metals
22 recycling business;

23 (b) The name, home address, and telephone number of each applicant;

24 (c) The address of each secondary metals recycling business owned by the
25 applicant;

26 (d) Contact information for the purposes of Section 9 of this Act;

27 (e) The nature or character of the goods, wares, merchandise, or services to be

1 offered by the applicant;

2 (f) Any criminal convictions within the past five (5) years related to theft, stolen
3 property, or other pecuniary crimes of the applicant; and

4 (g) A statement of whether the applicant has previously been denied a license
5 under this section or if the applicant has had a previous license revoked or
6 suspended, and if so, the reasons or circumstances surrounding the denial,
7 revocation, or suspension of the license.

8 (5) Each application for a license as a secondary metals recycler shall be
9 accompanied by a reasonable fee as established by the commission.

10 (6) Licenses issued by the commission shall be subject to annual renewal and shall
11 expire unless renewed upon payment of a reasonable renewal fee in the manner
12 prescribed by the commission.

13 (7) A secondary metals recycler business license shall be conspicuously displayed at
14 each secondary metals recycling business owned by a secondary metals recycler.

15 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) The commission shall oversee, manage, and enforce all penalties and disciplinary
18 actions related to violations committed by secondary metals recyclers. The
19 commission may coordinate with local law enforcement agencies to ensure
20 compliance with Sections 1 to 12 of this Act.

21 (2) The commission shall maintain a centralized record of violations and
22 enforcement actions taken under Sections 1 to 12 of this Act and shall make the
23 records available to law enforcement agencies and regulatory bodies as permitted
24 by law.

25 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) A license issued by the commission may be revoked or suspended by the

1 commission, subject to appeal pursuant to KRS Chapter 13B, for the following
2 reasons:

3 (a) Fraud, misrepresentation, or false statement contained in the license
4 application;

5 (b) Fraud, misrepresentation, or false statements made while conducting
6 business as a secondary metals recycler;

7 (c) A person is a fugitive or has been convicted of a criminal offense within the
8 preceding three (3) years involving business or commercial fraud, extortion,
9 or receiving stolen property;

10 (d) Any condition or fact that would have resulted in denial of the original
11 license application; or

12 (e) Conducting business as a secondary metals recycler under this chapter in
13 an unlawful manner or in a manner that endangers public health, safety, or
14 welfare.

15 (2) The commission shall give reasonable notice of the revocation or suspension to
16 the secondary metals recycler at the address listed in the application for licensure.

17 (3) Any secondary metals recycler whose license is revoked or suspended shall
18 immediately surrender the license to the commission.

19 (4) If a licensee is a firm or corporation, it shall be sufficient cause for the denial,
20 suspension, or revocation of a license that any officer, director, or trustee of the
21 firm or corporation, or any member in case of a partnership, has been guilty of
22 any act or omission which would be cause for refusing, suspending, or revoking a
23 license to the party as an individual. Each licensee shall be responsible for the
24 acts of any or all of his or her employees while acting as his or her agent, if the
25 licensee approved of or had knowledge of the acts and after approval or
26 knowledge retained the benefit, proceeds, profits, or advantages accruing from
27 the acts.

1 (5) Final orders of the commission as a result of any hearing may be appealed to the
2 Franklin Circuit Court in accordance with KRS Chapter 13B.

3 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The commission shall monitor the LeadsOnline database, which shall serve as
6 the centralized database for reports by secondary metals recyclers of any metals
7 transactions containing the information required under Section 10 of this Act, to
8 ensure compliance with the reporting requirements under Section 10 of this Act.

9 (2) Information in the LeadsOnline database shall only be provided or shared with
10 law enforcement agencies and regulatory bodies.

11 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
12 READ AS FOLLOWS:

13 A secondary metals recycler shall at all times maintain in a prominent place in its place
14 of business a notice in two (2) inch lettering that states the secondary metals recycler's
15 usual business hours and includes the following language:

16 "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST
17 PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF
18 OWNERSHIP REQUIRED BY STATE LAW.

19 WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON
20 WHO PROVIDES A FALSE IDENTIFICATION DOCUMENT OR OTHER FALSE
21 INFORMATION TO A SECONDARY METALS RECYCLER WHILE ATTEMPTING
22 TO SELL ANY REGULATED MATERIAL."

23 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) A law enforcement agency shall provide to each secondary metals recycler within
26 the agency's jurisdiction a searchable electronic list of persons convicted of a
27 theft offense in which metals were involved. The list shall be prepared in

1 accordance with rules adopted by the law enforcement agency and shall be
2 updated monthly. The law enforcement agency may request the appropriate
3 Circuit Court clerk to provide the list.

4 (2) The law enforcement agency shall transmit the list to the commission in an
5 electronic format consistent with rules adopted by the commission for inclusion
6 in the LeadsOnline database.

7 (3) Before submitting the list to the LeadsOnline database, the commission shall give
8 reasonable notice to each person on the list and an opportunity for the person to
9 be heard. Hearings under this subsection shall be governed by KRS Chapter 13B.
10 A final order of the commission may be appealed to Franklin Circuit Court in
11 accordance with KRS Chapter 13B.

12 (4) (a) A secondary metals recycler shall not purchase or receive articles from any
13 person listed on the electronic registry provided by the law enforcement
14 agency.

15 (b) A person who has appealed his or her inclusion on the registry shall not be
16 prohibited from selling or giving articles to a secondary metals recycler
17 unless a final order has been entered against the person. The commission
18 shall give notice to secondary metals recyclers of any person who has
19 initiated an appeal under subsection (3) of this section.

20 ➔Section 9. KRS 433.906 is amended to read as follows:

21 (1) A secondary metals recycler shall maintain at its place of business, or otherwise
22 have immediate access to, an email~~[e-mail]~~ address, facsimile, or other equipment
23 of similar function on which notifications of stolen restricted metals, ferrous metals,
24 and nonferrous metals may be expeditiously received from law enforcement
25 officials or electronic metal theft notification systems.

26 (2) The equipment shall be operable at all times during the secondary metal recycler's
27 customary business hours. The secondary metals recycler shall notify the

1 ~~commission~~~~[department of Professional Licensing of the Public Protection Cabinet]~~
2 within two (2) days of any change to the contact information used for the purposes
3 of this section.

4 ➔Section 10. KRS 433.890 is repealed, reenacted as a new section of KRS
5 Chapter 433, and amended to read as follows:

6 (1) Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of
7 bottles or rags, collector of or dealer in articles found in ashes, garbage, or other
8 refuse, whether such dealers, collectors, or vendors have established places of
9 business or operate a business of an itinerant nature, shall, with regard to any
10 catalytic converter, metal beverage container that is capable of holding more than
11 two (2) liters of beverage and is marketed as returnable, railroad rails, nonferrous
12 metal or an alloy thereof, or an object containing nonferrous metal or an alloy
13 thereof:

14 (a) *Enter a report into the LeadsOnline database for all metals transactions*
15 *within two (2) days of the transaction and* keep a register that contains:

16 1. A photocopy of a valid operator's license, personal identification card,
17 or other government-issued identification card or document which
18 contains the name, photograph, and signature of the seller. If the
19 purchaser has a copy of the seller's valid photo identification on file, it
20 shall not be necessary for the purchaser to make another copy of the
21 identification document for each purchase if the purchaser references the
22 number on the identification document in the register at the time of each
23 purchase;

24 2. *The home address and telephone number of the seller, if the*
25 *identification in subparagraph 1. of this paragraph does not contain*
26 *that information;*

27 3. *If a motor vehicle is*~~[The state and license number of the motor vehicle]~~

1 used to transport the purchased catalytic converter, metal beverage
2 container that is capable of holding more than two (2) liters of beverage
3 and is marketed as returnable, railroad rail, nonferrous metal or an alloy
4 thereof, or object containing nonferrous metal or an alloy thereof, to the
5 place of purchase, **the color, make, model, state, and license number of**
6 **the motor vehicle**, which shall be provided by the seller of the items;

7 **4. A photograph of a motor vehicle used in subparagraph 3. of this**
8 **paragraph that contains the state and license number of the motor**
9 **vehicle;**

10 **5.**~~[3.]~~ The time and date of the transaction;

11 **6.**~~[4.]~~ A description in the usage of the trade of the kind and weight of the
12 railroad rail, nonferrous metal or an alloy thereof, or object containing
13 the nonferrous metal or an alloy thereof purchased;

14 **7. A photograph of the property described in subparagraph 6. of this**
15 **paragraph;**

16 **8.**~~[5.]~~ The amount paid for the material and the unit basis of the purchase, such
17 as by ounce or pound, etc.; and

18 **9.**~~[6.]~~ For the purchase of a catalytic converter, a photocopy of:

- 19 a. The seller's identification that meets the minimum age requirement
20 in paragraph (c) of this subsection;
- 21 b. The receipt for the replacement catalytic converter; and
- 22 c. The title or registration for the vehicle from which the catalytic
23 converter was removed in the name of the seller;

24 (b) Not purchase any metal that has been smelted, burned, or melted unless, in
25 addition to the other requirements of this subsection, the seller provides the
26 following, and the purchaser maintains a copy thereof:

- 27 1. A signed certificate of ownership stating that he or she is the owner of

- 1 the metal and is entitled to sell it; or
- 2 2. A signed certificate from the owner of the metal stating that he or she is
- 3 the owner of the metal, and that the person selling the metal is
- 4 authorized to sell the metal on behalf of the owner;
- 5 (c) Not purchase any catalytic converter, metal beverage container that is capable
- 6 of holding more than two (2) liters of beverage and is marketed as returnable,
- 7 railroad rail, nonferrous metal or an alloy thereof, or an object containing
- 8 nonferrous metal or an alloy thereof from a person who:
- 9 1. Is less than eighteen (18) years of age;~~[-or]~~
- 10 2. Is unable or refuses to provide the identification and information
- 11 required in paragraph (a) of this subsection; or
- 12 3. Is attempting to conduct a retail sale outside the hours of 7:00 a.m. to
- 13 7:00 p.m.;
- 14 (d) Retain the information required by this section for a period of two (2) years,
- 15 after which time, the information may be retained, destroyed in a manner that
- 16 protects the identity of the owner of the property and the seller of the
- 17 property, or transferred to a law enforcement agency specified in paragraph
- 18 (g) of this subsection;
- 19 (e) If the purchaser ceases business, transfer all records and information required
- 20 by this section to a law enforcement agency specified in paragraph (g) of this
- 21 subsection;
- 22 (f) Permit any peace officer or inspector from the commission to inspect the
- 23 register, and if the peace officer or commission inspector deems it necessary
- 24 to locate specific stolen property, may inspect the catalytic converter, metal
- 25 beverage and container that is capable of holding more than two (2) liters of
- 26 beverage is marketed as returnable, railroad rail, nonferrous metal or an alloy
- 27 thereof, or object containing nonferrous metal or an alloy thereof received

1 during business hours with or without a subpoena;

2 (g) Upon written request of the sheriff, the chief of police, or the Kentucky State
3 Police, as appropriate, make a report containing the information required to be
4 retained in the register under paragraph (a) of this subsection in person, in
5 digital format, in writing, or by electronic means within twenty-four (24)
6 hours of the transaction to:

- 7 1. The sheriff of the county in which the purchase was made and the
8 sheriff of the county in which the business is located; and
9 2. When the purchase was made in a city, county, urban-county, charter
10 county, consolidated local government, or unified local government, to
11 the police department of the city, county, urban-county, charter county,
12 consolidated local government, or unified local government in which the
13 purchase is made and the police department of the city, county, urban-
14 county, charter county, consolidated local government, or unified local
15 government in which the business is located, unless there is no police
16 department in that jurisdiction;

17 (h) Comply with a written request pursuant to paragraph (g) of this subsection
18 until a written notice to cease sending the reports required by paragraph (g) of
19 this subsection is received by the purchaser. A request may relate to:

- 20 1. All records of purchases;
21 2. Records of a specific class of metals or items purchased;
22 3. Records of purchases during a specific period of time; or
23 4. Records of a specific purchase or purchases; and

24 (i) Retain the property in its original form or a photograph or digital image of the
25 property for a period of three (3) business days from the date of purchase
26 unless notified by a peace officer having reasonable cause to believe that the
27 property may be stolen property, in which case, the property may be seized as

1 evidence by the peace officer or, if not seized, shall be retained for an
2 additional thirty (30) days unless earlier notified by a peace officer that the
3 property may be sold.

4 (2) A sheriff or police department receiving records pursuant to this section shall retain
5 the records for two (2) years, after which time, it may either retain or destroy the
6 records in a manner that protects the identity of the owner of the property, the seller
7 of the property, and the purchaser of the property.

8 (3) Any record required to be made or reported pursuant to this section may be kept
9 and reported in hard copy or digital or in electronic format.

10 (4) This section shall not apply to the purchase, sale, or transfer of:

11 (a) A motor vehicle, aircraft, or other item that is licensed by the state or federal
12 government pursuant to a legitimate transfer of title or issuance of a junk title;

13 (b) A firearm, part of a firearm, firearm accessory, ammunition, or ammunition
14 component;

15 (c) A knife, knife parts, accessory or sheath for a knife, or knifemaking products;

16 (d) A nonreturnable used beverage container or food container;

17 (e) Jewelry, household goods containing metal, garden tools, and similar
18 household items, except for a catalytic converter or metal beverage container
19 that is capable of holding more than two (2) liters of liquid and which is
20 marketed as returnable, which takes place at a flea market or yard sale;

21 (f) A single transaction involving a purchase price of ten dollars (\$10) or less, but
22 more than two (2) transactions with the same person involving a purchase
23 price of ten dollars (\$10) or less in one (1) seven (7) day period shall be
24 reportable transactions;

25 (g) Material disposed of as trash or refuse that contains or may contain a catalytic
26 converter, metal beverage container that is capable of holding more than two
27 (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous

- 1 metals or an alloy thereof, or an object that contains or may contain a railroad
2 rail or nonferrous metals or an alloy thereof, which is collected by a municipal
3 waste department or by a licensed waste hauler and no payment is made to the
4 person from whom the material is collected by the person or agency collecting
5 the material;
- 6 (h) A catalytic converter, metal beverage container that is capable of holding
7 more than two (2) liters of beverage and marketed as returnable, railroad rail,
8 nonferrous metal or alloy thereof, or an object containing railroad rail,
9 nonferrous metal, or an alloy thereof from a person who has maintained a
10 record pursuant to this section to a person who is to further recycle the metal
11 or object containing the metal;
- 12 (i) A catalytic converter, metal beverage container that is capable of holding
13 more than two (2) liters of beverage and marketed as returnable, railroad rail,
14 nonferrous metal or an alloy thereof, or object containing nonferrous metal or
15 an alloy thereof under a written contract with an organization, corporation, or
16 association registered with the Commonwealth as a charitable, philanthropic,
17 religious, fraternal, civic, patriotic, social, or school sponsored organization;
- 18 (j) A purchase, pursuant to a written contract, from a manufacturing, industrial or
19 other commercial vendor that generates catalytic converters, metal beverage
20 containers capable of holding more than two (2) liters of beverage and which
21 are marketed as returnable, railroad rail, nonferrous metal or an alloy thereof,
22 or object containing nonferrous metal in the ordinary course of business;
- 23 (k) An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant
24 to KRS Chapter 226, engaging in the business authorized by that chapter; or
- 25 (l) Any ferrous metal item, except for a catalytic converter, metal beverage
26 container that is capable of holding more than two (2) liters of beverage and is
27 marked as returnable, or railroad rails.

1 ➔ SECTION 11. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
2 READ AS FOLLOWS:

3 By June 1, 2027, and June 1 of each year thereafter, the commission shall submit a
4 report to the Legislative Research Commission for referral to the Interim Joint
5 Committees on Judiciary and Licensing, Occupations, and Administrative Regulations,
6 which includes but is not limited to the following information for the preceding
7 calendar year:

8 (1) The number of:

9 (a) Licenses issued and to whom;

10 (b) On-site inspections conducted, and whether notice of the inspections was
11 given;

12 (c) Violations and citations issued; and

13 (d) Suspended and revoked licenses; and

14 (2) Whether any investigations resulted in referral to law enforcement agencies, and
15 if so, whether charges were filed.

16 ➔ SECTION 12. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO
17 READ AS FOLLOWS:

18 The commission shall promulgate administrative regulations in accordance with KRS
19 Chapter 13A to implement Sections 1 to 12 of this Act. Copies of the administrative
20 regulations shall be made available on the commission's website and in the offices of
21 the commission.

22 ➔ Section 13. KRS 433.892 is amended to read as follows:

23 (1) A person is guilty of failure to maintain a register of metals and objects containing
24 metal when the person fails or refuses to:

25 (a) Obtain the information required by KRS 433.890;

26 (b) Enter a report into the LeadsOnline database as required by Section 10 of
27 this Act;

- 1 (c) Keep the records required by KRS 433.890 for the period of time required in
2 KRS 433.890;
- 3 ~~(d)(e)~~ Provide the required records to the police department or sheriff as
4 required by KRS 433.890;
- 5 ~~(e)(d)~~ Provide access to a peace officer to records required to be kept pursuant
6 to KRS 433.890; or
- 7 ~~(f)(e)~~ Dispose of the records required to be maintained pursuant to KRS
8 433.890 in a manner meeting the requirements of KRS 433.890.

9 (2) Failure to maintain a register of metals and objects containing metal is a Class B
10 misdemeanor.

11 ➔Section 14. KRS 514.110 is amended to read as follows:

12 (1) A person is guilty of receiving stolen property when he or she receives, retains, or
13 disposes of movable property of another knowing that it has been stolen, or having
14 reason to believe that it has been stolen, unless the property is received, retained, or
15 disposed of with intent to restore it to the owner.

16 (2) The following shall be prima facie evidence that a person knew property was
17 stolen:

18 (a) A person possessed recently stolen movable property; or

19 (b) A secondary metals recycler as defined in Section 1 of this Act intentionally
20 failed to enter a report of a transaction into the LeadsOnline database or
21 maintain the information in a register pursuant to Section 10 of this
22 Act~~[possession by any person of any recently stolen movable property shall be~~
23 ~~prima facie evidence that such person knew such property was stolen].~~

24 (3) Receiving stolen property is a Class B misdemeanor unless:

25 (a) The value of the property is five hundred dollars (\$500) or more but less than
26 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;

27 (b) The value of the property is one thousand dollars (\$1,000) or more but less

- 1 than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 2 (c) A person has three (3) or more convictions under paragraph (a) of this
- 3 subsection within the last five (5) years, in which case it is a Class D felony.
- 4 The five (5) year period shall be measured from the dates on which the
- 5 offenses occurred for which the judgments of conviction were entered;
- 6 (d) The value of the property is ten thousand dollars (\$10,000) or more, in which
- 7 case it is a Class C felony;
- 8 (e) The property is a firearm, regardless of the value of the firearm, in which case
- 9 it is a Class D felony;
- 10 (f) The property is anhydrous ammonia, regardless of the value of the ammonia,
- 11 in which case it is a Class D felony unless it is proven that the person violated
- 12 this section with the intent to manufacture methamphetamine in violation of
- 13 KRS 218A.1432, in which case it is a Class B felony for the first offense and
- 14 a Class A felony for each subsequent offense; or
- 15 (g) The offense occurs during a declared emergency as defined by KRS 39A.020
- 16 arising from a natural or man-made disaster, within the area covered by the
- 17 emergency declaration, and within the area impacted by the disaster, in which
- 18 case the person shall be charged one (1) level higher than the level otherwise
- 19 specified in this subsection.
- 20 (4) If any person commits two (2) or more separate offenses of receiving stolen
- 21 property within ninety (90) days, the offenses may be combined and treated as a
- 22 single offense, and the value of the property in each offense may be aggregated for
- 23 the purpose of determining the appropriate charge.
- 24 ➔Section 15. KRS 433.894 is amended to read as follows:
- 25 (1) A person is guilty of unlawful acts relating to purchase or disposition of metals
- 26 when the person:
- 27 (a) Violates any provision of KRS 433.890 other than the recordkeeping

1 provisions; or

2 (b) Purchases or sells copper telecommunication wire in any form or any metal
3 property clearly identified as belonging to a telecommunications company,
4 unless the purchase or sale is excluded from the requirements of Section 10
5 of this Act by subsection (4) of that section.

6 (2) Unlawful acts relating to the purchase or disposition of metals is a Class B
7 misdemeanor.

8 ➔SECTION 16. KRS 190.010 IS REPEALED AND REENACTED TO READ
9 AS FOLLOWS:

10 As used in this chapter:

11 (1) "Adapted vehicle" means a new or used motor vehicle especially designed or
12 modified for use by an aging or disabled person;

13 (2) "Automobile, vehicle, or machinery recycler" means any place where five (5) or
14 more junked, wrecked, or nonoperative automobiles, vehicles, machines and
15 other similar scrap or salvage materials, excluding inoperative farm equipment,
16 are deposited, parked, placed, or otherwise located, or any business where ten
17 (10) or more junked, wrecked, or nonoperative automobiles, vehicles, machines,
18 and other similar scrap or salvage materials are deposited, parked, placed, or
19 otherwise located;

20 (3) "Automotive mobility dealer" means any motor vehicle dealer who:

21 (a) Exclusively engages in the business of selling, offering to sell, or soliciting
22 or advertising the sale of adapted vehicles;

23 (b) Possesses adapted vehicles exclusively for the purpose of resale, either on
24 his or her own account or on behalf of another, as his or her primary
25 business or incidental thereto; or

26 (c) Engages in the business of:

27 1. Selling, installing, or servicing;

- 1 2. Offering to sell, install, or service; or
- 2 3. Soliciting or advertising the sale, installation, or servicing of;
- 3 mobility equipment or other modifications specifically designed to facilitate
- 4 the use or operation of a motor vehicle by an aging or disabled person;
- 5 (4) "Business" means any person engaged as an automobile dealer, body shop
- 6 operator, wrecker service operator, service station operator, or other activity that
- 7 may buy, sell, or repair nonoperative vehicles, automobiles, or machinery as a
- 8 service;
- 9 (5) "Client" means a person who has an open case file with a nonprofit organization
- 10 or governmental agency and who meets the standards for disability or
- 11 disadvantaging condition as established in administrative regulations
- 12 promulgated by the commission pursuant to Section 27 of this Act;
- 13 (6) "Commission" means the Motor Vehicle Commission;
- 14 (7) "Commissioner" means the commissioner of the department;
- 15 (8) "Department" means the Department of Vehicle Regulation;
- 16 (9) "Designated family member":
- 17 (a) Means the spouse, child, grandchild, parent, brother, or sister of a dealer
- 18 who:
- 19 1. In the case of a deceased dealer:
- 20 a. Is entitled to inherit the dealer's ownership interest in the
- 21 dealership under the terms of the dealer's will;
- 22 b. Has otherwise been designated in writing by a deceased dealer to
- 23 succeed him or her in the motor vehicle dealership; or
- 24 c. Under the laws of intestate succession of this state is entitled to
- 25 inherit the interest; or
- 26 2. In the case of an incapacitated dealer, has been appointed by a court
- 27 as the legal representative of the dealer's property; and

1 (b) Includes the appointed and qualified personal representative and
2 testamentary trustee of a deceased dealer;

3 (10) "Established place of business" means a permanent, enclosed commercial
4 building located within this state, easily accessible and open to the public at all
5 reasonable times, and at which the business of a vehicle dealer, including the
6 display and repair of vehicles, may be lawfully carried on in accordance with the
7 terms of all applicable building codes, zoning, and other land use regulatory
8 ordinances;

9 (11) "Franchise" means the agreement or contract between any new motor vehicle
10 manufacturer, written or otherwise, and any new motor vehicle dealer that
11 purports to fix the legal rights and liabilities of the parties to an agreement or
12 contract, and pursuant to which the dealer purchases and resells the franchise
13 product, along with any addendums to the franchise agreement;

14 (12) "Fraud" means:

15 (a) A misrepresentation in any manner, whether intentionally false or due to
16 gross negligence, of a material fact;

17 (b) A promise or representation not made in good faith; or

18 (c) An intentional failure to disclose material fact;

19 (13) "Good faith" means honesty in fact and the observance of reasonable
20 commercial standards of fair dealing, as defined and interpreted in KRS 355.1-
21 201(2)(u);

22 (14) "Licensor" means the commission;

23 (15) "Manufacturer":

24 (a) Means any person, partnership, firm, association, corporation, or trust,
25 resident or nonresident, who manufactures or assembles new motor
26 vehicles, or imports for distribution through distributors of new motor
27 vehicles, or any partnership, firm, association, joint venture, corporation, or

1 trust, resident or nonresident, which is controlled by the manufacturer; and
2 (b) Includes the following terms, as defined:

3 1. "Distributor" means any person, firm, association, corporation, or
4 trust, resident or nonresident, who in whole or in part offers for sale,
5 sells, or distributes any new motor vehicle to new motor vehicle
6 dealers, or who maintains factory representatives, or who controls any
7 person, firm, association, corporation, or trust, resident or
8 nonresident, who in whole or in part offers for sale, sells, or
9 distributes any new motor vehicle to new motor vehicle dealers;

10 2. "Distributor branch" means a branch office maintained by a
11 distributor or wholesaler similarly to a factory branch and for the
12 same purposes;

13 3. "Distributor representative" means a representative employed by a
14 distributor, distributor branch, or wholesaler similarly to a factory
15 representative;

16 4. "Factory branch" means a branch office maintained by a
17 manufacturer for the purpose of selling, or offering for sale, new
18 motor vehicles to a distributor, wholesaler, or new motor vehicle
19 dealer, or for directing or supervising, in whole or in part, factory or
20 distributor representatives, and includes any sales promotion
21 organization, whether the same be a person, firm, or corporation,
22 which is engaged in promoting the sale of new motor vehicles in this
23 state of a particular brand or make to new motor vehicle dealers; and

24 5. "Factory representative" means a representative employed by a
25 manufacturer, distributor, or factory branch for the purpose of
26 making or promoting for the sale of his or her, its, or their new motor
27 vehicles, or for supervising or contracting with his or her, its, or their

1 dealers, or prospective dealers;

2 (16) "Material recycler" means any establishment or place of business, including
3 garbage dumps and sanitary fills, maintained, operated, or used for storing,
4 keeping, buying, or selling of old or scrap copper, brass, rope, rags, batteries,
5 paper, trash, rubber debris, waste, or motor vehicle parts, iron, steel, and other
6 old or scrap ferrous or nonferrous material;

7 (17) "Mobility equipment" means equipment specifically designed to facilitate the use
8 or operation of a motor vehicle by an aging or disabled person;

9 (18) "Moped" means a motorized bicycle with pedals whose frame design may include
10 one (1) or more horizontal crossbars supporting a fuel tank, or a motorized
11 bicycle with pedals and with a step through type frame rated no more than two (2)
12 brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters,
13 an automatic transmission not requiring clutching or shifting by the operator
14 after the drive system is engaged, and the capability of a maximum speed of not
15 more than thirty (30) miles per hour;

16 (19) "Motor vehicle":

17 (a) Means every vehicle intended primarily for use and operation on the public
18 highways that is self-propelled, including low-speed motor vehicles as
19 defined in KRS 186.010; and

20 (b) Does not include any recreational vehicle or farm tractor or other machines
21 and tools used in the production, harvesting, or care of farm products;

22 (20) "Motor vehicle auction dealer" means any person primarily engaged in the
23 business of offering, negotiating, or attempting to negotiate a sale, purchase, or
24 exchange of a motor vehicle through auction;

25 (21) "Motor vehicle dealer":

26 (a) Means any person engaged in the business of selling, offering to sell,
27 soliciting, or advertising the same, of new or used motor vehicles, or

1 possessing motor vehicles for the purpose of resale, either on his or her own
2 account, or on behalf of another, either as his or her primary business or
3 incidental thereto; and

4 (b) Does not include:

5 1. Receivers, trustees, administrators, executors, guardians, or other
6 persons appointed by or acting under the judgment or order of any
7 court, and any bank, trust company, or lending institution that is
8 subject to state or federal regulation, with regard to its disposition of
9 repossessed motor vehicles;

10 2. Public officers while performing their official duties; or

11 3. Employees of persons enumerated in subparagraphs 1. and 2. of this
12 paragraph, when engaged in the specific performance of their duties
13 as employees;

14 (22) "Motor vehicle leasing dealer":

15 (a) Means any person engaged in the business of regularly making available,
16 offering to make available, or arranging for another person to use a motor
17 vehicle pursuant to a bailment, lease, or other contractual arrangement
18 under which a charge is made for its use at a periodic rate for at least a
19 monthly term, and title to the motor vehicle is in a person other than the
20 user; and

21 (b) Does not mean a manufacturer or its affiliate leasing to its employees or to
22 dealers;

23 (23) "Motor vehicle salesperson" means any person who is employed as a salesperson
24 by a motor vehicle dealer to sell motor vehicles, or who is employed as an
25 auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction;

26 (24) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to
27 sell, solicits, or advertises motorcycles, including alternative-speed motorcycles

1 and autocycles as those terms are defined in KRS 186.010. As used in this
2 subsection, "motorcycles" does not include mopeds;

3 (25) "New motor vehicle" means a vehicle that is in the possession of the
4 manufacturer, distributor, or wholesaler, or has been sold to the holders of a
5 valid sales and service agreement, franchise, or contract, granted by the
6 manufacturer, distributor, or wholesaler for the sale of the make of new vehicle,
7 which is new, and on which the original title has not been issued from the
8 franchised dealer;

9 (26) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and
10 service agreement, franchise, or contract, granted by the manufacturer,
11 distributor, or wholesaler for the sale of the manufacturer's new motor vehicles;

12 (27) "New motor vehicle dealership facility" means an established place of business
13 which is being used or will be used primarily for the purpose of selling, buying,
14 displaying, repairing, and servicing motor vehicles;

15 (28) "New recreational vehicle dealer" has the same meaning as in KRS 190A.010;

16 (29) "Nonprofit motor vehicle dealer" means a nonprofit organization exempt from
17 taxation under Section 501(c)(3) of the Internal Revenue Code that purchases
18 motor vehicles that it may offer for purchase to clients and other individuals who
19 meet the definition of client and who are referred to the organization by public or
20 private social service agencies;

21 (30) "Operator" means a person, firm, or corporation operating an automobile,
22 vehicle, or machinery recycler, or material recycler establishment or place of
23 business, or the allowing of such automobile, vehicle, or machinery recycler, or
24 material recycler establishment or place of business to be placed or deposited, or
25 to remain on premises owned or controlled by such person, firm, or corporation;

26 (31) "Person" means any individual, firm, agency, company, association, partnership,
27 business trust, trust, estate, joint stock company, body politic, corporation, or

1 other legal entity;

2 (32) "Recreational vehicle" means a vehicle that:

3 (a) Is primarily designed as temporary living quarters for noncommercial
4 recreation or camping use;

5 (b) Has its own motive power or is towed by another vehicle;

6 (c) Is regulated by the National Highway Traffic Safety Administration as a
7 vehicle; and

8 (d) Does not require a special highway use permit;

9 (33) "Restricted motor vehicle dealer" means:

10 (a) A motor vehicle dealer who exclusively sells, offers to sell, solicits, or
11 advertises specialized motor vehicles, including but not limited to funeral
12 coaches and emergency vehicles; or

13 (b) An automotive recycling dealer engaged in the business of dismantling,
14 salvaging, or recycling salvage motor vehicles for the purpose of harvesting
15 used parts, components, assemblies, and recyclable materials for resale,
16 reuse, or reclamation;

17 (34) "Road" means any county, state, federal, or limited access highway or turnpike,
18 including bridges and bridge approaches;

19 (35) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease,
20 pledge, hypothecation, mortgage in any form, whether by transfer in trust or
21 otherwise, of any motor vehicle or interest in it, or of any franchise related to it,
22 as well as any option, subscription, other contract, or solicitation looking to a
23 sale, offer to attempt to sell in any form, whether spoken or written. A gift or
24 delivery of any motor vehicle or franchise with respect thereto, with or as a bonus
25 on account of the sale of anything, shall be deemed a sale of the motor vehicle or
26 franchise; and

27 (36) "Used motor vehicle dealer":

1 (a) Means any person engaged in the business of selling at retail, displaying,
2 offering for sale, or dealing in used motor vehicles or autocycles as defined
3 in KRS 186.010; and

4 (b) Does not mean:

- 5 1. Any person engaged in the business of dismantling, salvaging, or
6 rebuilding motor vehicles by means of using used parts who does not
7 have a used motor vehicle dealer license; or
8 2. Any public officer performing his or her official duties.

9 ➔Section 17. KRS 190.030 is amended to read as follows:

- 10 (1) (a) Except as provided in paragraph (b) of this subsection, a motor vehicle dealer,
11 new, used, or auction motor vehicle dealer, nonprofit motor vehicle dealer,
12 motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle
13 dealer, broker, wholesaler, automotive recycling dealer, new recreational
14 vehicle dealer, a motor vehicle salesperson~~[of motor vehicles]~~, or a~~t~~
15 ~~salesperson of~~ new recreational vehicle salesperson~~[vehicles]~~ shall not
16 engage in business in this state at any location without a license issued for that
17 location as provided in KRS 190.010 to 190.080.
- 18 (b) An entity identified in paragraph (a) of this subsection with an established
19 place of business may conduct sales activities via the internet and deliver
20 vehicles sold or leased by the licensed dealer to a customer at the customer's
21 residence or other suitable location, as long as the sale, lease, or delivery is
22 requested by the customer.
- 23 (c) If a person licensed as a motor vehicle dealer or new recreational vehicle
24 dealer acts as a motor vehicle salesperson or a new recreational vehicle
25 salesperson, that person shall secure a motor vehicle salesperson's license or a
26 new recreational vehicle salesperson's license in addition to a license for a
27 motor vehicle dealer or for a new recreational vehicle dealer.

1 (2) A manufacturer of motor vehicles, recreational vehicles, factory branch, distributor,
2 distributor branch, or wholesaler shall not engage in business in this state without a
3 license as provided in KRS 190.010 to 190.080.

4 (3) A factory representative or distributor representative shall not engage in business in
5 this state without a license as provided in KRS 190.010 to 190.080.

6 (4) **An automobile, vehicle, or machinery recycler, or material recycler shall not**
7 **engage in business in this state without a license as provided in Sections 18 to 24**
8 **of this Act.**

9 **(5)** Application for license shall be made to the licensor, at a time, in a form, and
10 containing information the licensor shall require and shall be accompanied by the
11 required fee. The licensor may require, as part of the application process,
12 information relating to the applicant's solvency, financial standing, or other
13 pertinent matter commensurate with the safeguarding of the public interest in the
14 locality in which the applicant proposes to engage in business. The information may
15 be considered by the licensor in determining the fitness of the applicant to engage in
16 business as set forth in this section.

17 ~~**(6)**~~ ~~**(5)**~~ All licenses shall be granted or refused within thirty (30) days after
18 submission of a complete application and shall expire, unless revoked or suspended,
19 on December 31 of the calendar year for which they are granted. If a complaint of
20 unfair cancellation of dealer franchise is in the process of being heard, a
21 replacement application for the franchise shall not be considered until a decision is
22 rendered by the commission.

23 ~~**(7)**~~ ~~**(6)**~~ (a) The commission shall promulgate administrative regulations in
24 accordance with KRS Chapter 13A to establish annual license fees, not to
25 exceed five hundred dollars (\$500), for:

- 26 1. New motor vehicle dealers;
27 2. Used motor vehicle dealers;

- 1 3. Motor vehicle leasing dealers;
- 2 4. Restricted motor vehicle dealers;
- 3 5. Motorcycle dealers;
- 4 6. Motor vehicle manufacturers and factory branches;
- 5 7. Distributors, motor vehicle auction dealers, and wholesalers;
- 6 8. Factory representatives and distributor branch representatives;
- 7 9. Automotive mobility dealers;
- 8 10. Nonprofit motor vehicle dealers;
- 9 11. Recreational vehicle manufacturers and distributors;~~and~~
- 10 12. New recreational vehicle dealers;

11 **13. Automobile, vehicle, or machinery recyclers; and**

12 **14. Material recyclers.**

13 (b) The commission shall promulgate administrative regulations in accordance
14 with KRS Chapter 13A to establish annual license fees, not to exceed fifty
15 dollars (\$50), for motor vehicle salespersons and new recreational vehicle
16 salespersons.

17 (c) In addition to the annual license fees established under paragraph (b) of this
18 subsection, the commission may promulgate administrative regulations in
19 accordance with KRS Chapter 13A to establish licenses and appropriate fees
20 for other licensee activities.

21 (d) A license fee imposed on motor vehicle salespersons and new recreational
22 vehicle salespersons shall be paid by the licensed dealer for every salesperson
23 the dealer employs.

24 (e) A license fee shall not be imposed on nonprofit motor vehicle dealer
25 salespersons.

26 ~~(8)(7)~~ (a) The licenses of dealers, manufacturers, factory branches, distributors,
27 and distributor branches shall specify the location of the office or branch and

1 shall be conspicuously displayed there. If the location is changed, the licensor
2 shall endorse the change of location on the license. A licensee shall not be
3 charged a fee for changing locations. A change of location shall require a new
4 application.

- 5 (b) 1. A motor vehicle dealer who is not a new motor vehicle dealer may
6 conduct a temporary sale or display in the county where the dealer is
7 licensed to conduct business.
- 8 2. A new motor vehicle dealer may conduct a temporary sale or display in
9 the dealer's market as defined in KRS 190.047(6).
- 10 3. A recreational vehicle dealer may conduct a temporary sale or display in
11 the county where the dealer is licensed to conduct business or in any
12 other county where there is no licensed recreational vehicle dealer.

13 (c) A temporary sale or display may be conducted under this subsection if the
14 temporary sale or display is permitted under an enabling ordinance enacted by
15 the city, county, urban-county government, or consolidated local government
16 within whose boundaries the temporary sale or display is to be conducted. A
17 temporary sale or display shall be advertised as temporary in nature and shall
18 consist of a representative sampling of the inventory of each participating
19 licensee.

20 (d) ~~[The provisions of]~~ This subsection shall not apply to a nonprofit motor
21 vehicle dealer.

22 ~~(9)~~~~(8)~~ Every salesperson, factory representative, or distributor representative shall
23 carry his or her license when engaged in business, and display it upon request. The
24 license shall name his or her employer; and in case of a change of employer, the
25 salesperson shall immediately mail his or her license to the licensor who shall
26 endorse the change on the license without charge.

27 ~~(10)~~~~(9)~~ If the licensor has reasonable cause to doubt the financial responsibility or the

1 compliance by the applicant or licensee with the provisions of this statute, the
2 licensor may require the applicant or licensee to furnish and maintain a bond in a
3 form, amount and with sureties up to one hundred thousand dollars (\$100,000),
4 conditioned upon the applicant or licensee complying with the provisions of the
5 statutes applicable to the licensee. The bonds shall be executed in the name of the
6 State of Kentucky for the benefit of any aggrieved parties, but the penalty of the
7 bond shall not be invoked except after a court adjudication. The commission may
8 promulgate administrative regulations to permit the applicant to submit evidence, in
9 lieu of posting bond, that reliable financial arrangements, deposits, or commitments
10 exist providing assurance, substantially equivalent to that afforded by a bond
11 complying with this subsection, for payment on conditions and indemnity set forth
12 in this subsection. The bonding requirements of this subsection shall not apply to
13 manufacturers, factory branches, and their agents.

14 ~~(11)~~~~(10)~~ Application for dealer's license shall be submitted to the commission and
15 contain information the commission may require. A motor vehicle dealer, unless
16 licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive,
17 or use any motor vehicle registration plates.

18 ~~(12)~~~~(11)~~ Every motor vehicle dealer or new recreational vehicle dealer licensed in
19 accordance with ~~the provisions of~~ this section shall make reports to the licensor at
20 intervals and show information the licensor may require.

21 ➔Section 18. KRS 177.910 is repealed, reenacted as a new section of KRS
22 Chapter 190, and amended to read as follows:

23 **A person shall not**~~[No person shall]~~ operate or cause to be operated any automobile,
24 vehicle, **or** machinery **recycler**, or material **recycler**~~[recycling]~~ establishment or place of
25 business which is situated closer than one thousand (1,000) feet from the right-of-way
26 line of any road unless a **license**~~[permit]~~ for **the**~~[such]~~ operation **has been**~~[shall have been]~~
27 ~~been~~ obtained from the **commission**~~[department]~~. The operation of any automobile,

1 vehicle, or machinery recycler, or material recycler~~[recycling]~~ establishment or place of
2 business so situated without a license~~[permit]~~ is hereby declared to be a public nuisance.

3 ➔Section 19. KRS 177.912 is repealed, reenacted as a new section of KRS
4 Chapter 190, and amended to read as follows:

5 An automobile, vehicle, or machinery recycler~~[recycling]~~ establishment or place of
6 business, or material recycler~~[recycling]~~ establishment or place of business which
7 complies as a conforming use in an industrially zoned area under the applicable zoning
8 ordinances and regulations of any county or city, as determined in the discretion of the
9 commission~~[commissioner of highways]~~, shall not be deemed to be in violation of
10 Sections 18 to 24 of this Act~~[KRS 177.905 to 177.950]~~.

11 ➔Section 20. KRS 177.915 is repealed, reenacted as a new section of KRS
12 Chapter 190, and amended to read as follows:

13 **(1) The commission shall promulgate administrative regulations in accordance with**
14 **KRS Chapter 13A to establish that the license required under Section 18 of this**
15 **Act shall be issued**~~[The permit required by KRS 177.910 shall be issued in~~
16 ~~accordance with the administrative regulations of the department, promulgated~~
17 ~~pursuant to the provisions of KRS 177.905 to 177.950,]~~ when it is shown to the
18 satisfaction of the commission~~[commissioner]~~ that an automobile, vehicle, or
19 machinery recycler, or material recycler~~[recycling]~~ establishment or place of
20 business located closer than one thousand (1,000) feet from the right-of-way line of
21 any road is, so far as deemed practical by the commission~~[secretary]~~, hidden from
22 the view of motorists using the~~[such]~~ road by an artificial or natural screen, or is
23 hidden by virtue of natural topography~~[so hidden]~~.

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

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

4 ➔Section 21. KRS 177.925 is repealed, reenacted as a new section of KRS
 5 Chapter 190, and amended to read as follows:

6 Where the commission~~[commissioner]~~ has reasonable cause to doubt the financial
 7 responsibility of the operator or compliance by the operator with Sections 18 to 24 of this
 8 Act~~[the provisions of KRS 177.905 to 177.950]~~, the commission~~[commissioner]~~ may
 9 require the~~[such]~~ operator to furnish and maintain a bond in the~~[such]~~ form, amount, and
 10 with the~~[such]~~ sureties as it~~[he]~~ shall approve, but not less than one thousand dollars
 11 (\$1,000) nor more than five thousand dollars (\$5,000) conditioned upon the operator
 12 complying with Sections 18 to 24 of this Act~~[the provisions of KRS 177.905 to 177.950]~~
 13 and the administrative regulations adopted pursuant thereto. Any bond forfeiture is
 14 hereby appropriated to the commission~~[state road fund]~~.

15 ➔Section 22. KRS 177.935 is repealed, reenacted as a new section of KRS
 16 Chapter 190, and amended to read as follows:

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

- 18 (1) Exercise general supervision of the administration and enforcement of Sections 18
 19 to 24 of this Act~~[KRS 177.905 to 177.950.]~~
- 20 (2) Promulgate~~[, pursuant to KRS Chapter 13A,]~~ administrative regulations in
 21 accordance with KRS Chapter 13A pertaining to the operation of automobile,
 22 vehicle, or machinery recycler, or material recycler~~[recycling]~~ establishments or
 23 places of business as the commissioner may deem necessary to the administration
 24 and enforcement of Sections 18 to 24 of this Act~~[KRS 177.905 to 177.950.]~~
- 25 (3) Promulgate administrative regulations in accordance with KRS Chapter 13A with
 26 respect to the sufficiency, type of material or foliage, height, density, and size of
 27 screening required by Section 20 of this Act~~[KRS 177.915]~~ to ensure~~[insure]~~ the

- 1 accomplishment of the purposes of Sections 18 to 24 of this Act; ~~[KRS 177.905 to~~
2 ~~177.950.]~~
- 3 (4) Promulgate administrative regulations in accordance with KRS Chapter 13A with
4 respect to the procedural aspects of hearings conducted in accordance with,
5 ~~supplemental to~~ KRS Chapter 13B, the filing of reports and orders, the issuance of
6 licenses ~~[permits]~~ and other matters; ~~[-]~~
- 7 (5) Issue, after hearing, final orders abating the operation of an automobile, vehicle, or
8 machinery recycler, or material recycler ~~[recycling]~~ establishments or places of
9 business in violation of the provisions of Sections 18 to 24 of this Act ~~[KRS~~
10 ~~177.905 to 177.950]~~, or requiring the adoption of remedial measures including the
11 construction or planting of screens or the utilization of natural screening, extension,
12 modification, or addition to new or existing screens; ~~[-]~~
- 13 (6) Issue, continue in effect, revoke, modify, or deny under conditions as the
14 commission ~~[department]~~ may prescribe and subject to a hearing in accordance with
15 KRS Chapter 13B, licenses ~~[permits]~~ for the operation of an automobile, vehicle, or
16 machinery recycler, or material recycler ~~[recycling]~~ establishments or places of
17 business; ~~[-]~~
- 18 (7) Make investigations or inspections which may be deemed necessary by the
19 commission ~~[commissioner]~~ to ensure ~~[insure]~~ compliance with Sections 18 to 24 of
20 this Act ~~[the provisions of KRS 177.905 to 177.950]~~, or with any administrative
21 regulations or orders of the commission ~~[department]~~ which may be deemed
22 necessary to enable the commission ~~[department]~~ to administer and enforce the
23 provisions of Sections 18 to 24 of this Act; ~~[KRS 177.905 to 177.950.]~~
- 24 (8) Institute in a court of competent jurisdiction procedures, including injunctive relief,
25 to compel compliance with Sections 18 to 24 of this Act ~~[the provisions of KRS~~
26 ~~177.905 to 177.950]~~ and with the final orders and administrative regulations issued
27 pursuant thereto; ~~[-]~~

(9) Enter at any reasonable time through any officer, assistant, agent, or employee in or upon any public or private property for the purpose of investigation and inspection of conditions relating to the operation of any automobile, vehicle, or machinery recycler, or material recycler~~[recycling]~~ establishments or places of business; and~~[.]~~

(10) Perform any other acts as may be necessary, proper, or desirable in order to carry out effectively the duties and responsibilities of the commission~~[department]~~ prescribed in Sections 18 to 24 of this Act~~[KRS 177.905 to 177.950]~~.

➔Section 23. KRS 177.940 is repealed, reenacted as a new section of KRS Chapter 190, and amended to read as follows:

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

(b) Administrative hearings shall be conducted in accordance with KRS Chapter 13B before:

1. The issuance of any final order prohibiting the performance by any person of any act or acts deemed to be in contravention of any administrative regulations, orders, or licenses~~[permits]~~ of the commission~~[department]~~;

2. ~~[or before]~~ Denial, revocation, or modification of any license~~[permit]~~ provided for by Sections 18 to 24 of this Act~~[KRS 177.905 to 177.950]~~; or

3. ~~[before]~~ Any other final determination is made by the commission~~[department]~~ which directly affects the activities of any person.

1 (2) The commission~~[department]~~ shall grant an administrative hearing to any person,
2 not previously heard in connection with the issuance of any order or the making of
3 any determination, who may consider himself or herself aggrieved by any order or
4 determination and who shall file with the commission~~[department]~~ a verified
5 petition alleging that the order or determination is contrary to law or that is
6 injurious to him or her, stating the grounds and reasons therefor and requesting a
7 hearing~~[thereon]~~. The hearing shall be conducted in accordance with KRS Chapter
8 13B.

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

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

14 ➔Section 25. KRS 190.990 is amended to read as follows:

15 (1) Except as provided in subsection (5) of this section, any person who violates or
16 causes, aids, or abets any violation of any provision of KRS 190.010 to 190.080 and
17 KRS Chapter 190A, as such provisions apply, respectively, to new motor vehicle
18 dealers, new recreational vehicle dealers, manufacturers, distributors, factory
19 branches, or factory representatives, or any order, rule or administrative regulation
20 lawfully issued pursuant to authority granted by KRS 190.010 to 190.080 shall be
21 fined not less than twenty-five dollars (\$25) nor more than five hundred dollars
22 (\$500), or imprisoned for not more than thirty (30) days, or both. Any person who
23 violates~~[paragraphs (l), (m) or (n) of subsection (1) of]~~ KRS 190.040~~(1)(l), (m), or~~
24 (n) may also be subject to a suspension or revocation sentence of not more than a
25 year effective only in the territory formerly served by the unfairly canceled dealer,
26 except that in a metropolitan area serviced by several dealers handling the same
27 motor vehicle or recreational vehicle, the suspension or revocation order shall not

1 be applicable to the remaining dealers.

2 (2) Any person who willfully and intentionally violates any provision of KRS 190.090
3 to 190.140 shall be guilty of a misdemeanor and upon conviction shall be **fin**
4 **ed not more than**~~[punished by a fine not exceeding]~~ five hundred dollars (\$500).

5 (3) A willful violation of KRS 190.100 or 190.110 by any person shall bar his or her
6 recovery of any finance charge, delinquency, or collection charge on the retail
7 installment contract involved.

8 (4) Any person who willfully violates KRS 190.270 to 190.320 shall be subject to a
9 penalty of five thousand dollars (\$5,000) per violation, which may be recovered on
10 behalf of the Commonwealth by the Attorney General.

11 (5) Any person who willfully and fraudulently gives a false statement as to the total and
12 actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of
13 a Class D felony and shall be fined not less than two thousand dollars (\$2,000) per
14 offense.

15 (6) Any licensee who violates KRS 186A.100, 186A.105, 186A.110, or 186A.990(4)
16 may be subject to the following penalties levied by the commission:

17 (a) For the first offense, a warning or a fine of up to one thousand dollars
18 (\$1,000) per violation;

19 (b) For the second offense within a two (2) year period, a fine of up to two
20 thousand dollars (\$2,000) per violation and a suspension of the licensee's
21 license for up to one (1) year; and

22 (c) For the third offense within a two (2) year period, a fine of up to two thousand
23 dollars (\$2,000) per violation and a revocation of the licensee's license.

24 **(7) In addition to any other penalty provided in Sections 18 to 24 of this Act, any**
25 **person who violates any provision of Sections 18 to 24 of this Act or any order**
26 **issued thereunder shall be guilty of a misdemeanor and upon conviction shall be**
27 **fin**
ed not less than one hundred dollars (\$100) nor more than one thousand

1 **dollars (\$1,000). Each day of violation shall constitute a separate offense.**

2 ➔Section 26. KRS 177.990 is amended to read as follows:

3 (1) Any person who violates any of the provisions of KRS 177.230 to 177.310 shall be
4 guilty of a misdemeanor and upon arrest and conviction therefor, shall be
5 **fined**~~[punished by a fine of]~~ not less than five dollars (\$5) nor more than one
6 hundred dollars (\$100).

7 (2) Any person who willfully violates any of the provisions of KRS 177.841 to 177.890
8 shall, in addition to any other penalty herein provided, be fined not less than one
9 hundred dollars (\$100) nor more than five hundred dollars (\$500).

10 (3) ~~[In addition to any other penalty provided by KRS 177.910 to 177.950, any person~~
11 ~~violating any order or provision of KRS 177.910 to 177.950 shall be guilty of a~~
12 ~~misdemeanor and upon conviction shall be punished by a fine of not less than one~~
13 ~~hundred dollars (\$100) and not more than one thousand dollars (\$1,000). Each day~~
14 ~~of violation of the provisions of KRS 177.910 to 177.950 shall constitute a separate~~
15 ~~offense.~~

16 ~~(4)~~ Any person who violates the weight provisions of KRS 177.9771 shall, upon
17 conviction, be fined in an amount equal to three cents (\$0.03) per pound when the
18 excess is three thousand (3,000) pounds or less, five cents (\$0.05) per pound when
19 the excess exceeds three thousand (3,000) pounds but is less than four thousand
20 (4,000) pounds, seven cents (\$0.07) per pound when the excess exceeds four
21 thousand (4,000) pounds but is less than five thousand (5,000) pounds, and nine
22 cents (\$0.09) per pound when the excess exceeds five thousand (5,000) pounds. In
23 no case shall the fine be less than sixty dollars (\$60) nor more than five hundred
24 dollars (\$500).

25 **(4)**~~(5)~~ Any person who transports coal in violation of the weight provisions of KRS
26 189.221 and 189.222 and does not have a current decal or is not transporting coal
27 under a valid cooperative agreement within KRS 177.9771(4)(f), shall, in addition

1 to any applicable penalty prescribed by law, be fined five hundred dollars (\$500)
2 and be required to purchase the decal described in KRS 177.9771(4).

3 ~~(5)(6)~~ Any person who violates the provisions of KRS 177.305 shall be fined not
4 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
5 offense.

6 ➔Section 27. KRS 190.032 is amended to read as follows:

7 (1) A nonprofit organization, prior to engaging in the business of a nonprofit motor
8 vehicle dealer, shall obtain a nonprofit motor vehicle dealer license from the
9 commission.

10 (2) A nonprofit motor vehicle dealer and persons who act as salespersons for a
11 nonprofit motor vehicle dealer shall be licensed and regulated by the commission
12 under~~the provisions of~~ this chapter, except that a nonprofit motor vehicle dealer
13 shall not be required to **comply with subsection (8) of Section 17 of this Act or**
14 **Section 28 of this Act**;

15 ~~(a) Comply with KRS 190.030(7); or~~

16 ~~(b) Comply with KRS 190.035].~~

17 (3) A nonprofit motor vehicle dealer may sell vehicles only to:

18 (a) A person who is a client of the nonprofit organization;

19 (b) A person referred by other nonprofit organizations or governmental agencies
20 who meets the definition of client~~as defined in KRS 190.010~~; or

21 (c) A licensed motor vehicle dealer or automotive recycling dealer.

22 (4) The commission shall promulgate administrative regulations in accordance with
23 KRS Chapter 13A to establish requirements for initial application for and renewal
24 of a license to be a nonprofit motor vehicle dealer and standards for disability and
25 disadvantaging condition. In addition, the commission may promulgate additional
26 administrative regulations that are necessary to implement this section.

27 ➔Section 28. KRS 190.035 is amended to read as follows:

(1) (a) Except as provided in subsection (2) of this section, a license shall not be issued by the commission for the purposes described in KRS 190.030(1) and to motor vehicle dealers or new recreational vehicle dealers, either as dealer or salesperson~~salesman~~, unless the applicant for the license has an established place of business~~as defined in KRS 190.010~~ or, for recreational vehicles as defined in KRS 190A.010, and as provided by administrative regulation of the commission consistent with the activity of the license applied for.

(b) A licensee may conduct more than one (1) business in a building otherwise meeting the requirements of this chapter providing he or she has suitable space and adequate facilities therein to properly conduct the business of a motor vehicle dealer.

(c) The lot requirement of this section may be waived if the dealer has sufficient space within a building to properly show and display the motor vehicles or new recreational vehicles being sold~~by him~~. The dealer shall display a sign easily visible from the street identifying the~~his~~ business.

(2) ~~The provisions of~~ This section shall not apply to a nonprofit motor vehicle dealer.

➔ Section 29. KRS 190.045 is amended to read as follows:

(1) Notwithstanding the terms, provisions, or conditions of any franchise or notwithstanding the terms or provisions of any waiver, a manufacturer shall not cancel, terminate, or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:

(a) Satisfied the notice requirement of subsection (4) of this section;

(b) Has good cause for cancellation, termination, or nonrenewal;

(c) Has acted in good faith~~as defined in KRS 190.010(22)~~; and

(d) Has established the requirements of this subsection in proceedings before the licensor if the action is protested by the new motor vehicle dealer within:

- 1 1. Thirty (30) days after receiving notice of the cancellation, termination,
2 or nonrenewal; or
- 3 2. Fifteen (15) days for a termination for a cause listed in subsection (4)(c)
4 of this section.

5 When a protest is filed, the licensor shall inform the manufacturer, distributor,
6 factory branch, or factory representative that a timely protest has been filed and that
7 the manufacturer, distributor, factory branch, or factory representative shall not
8 cancel, terminate, or fail to renew any franchise with the licensed new motor
9 vehicle dealer until the licensor has held a hearing and the licensor has determined
10 that the manufacturer has met its burden under this section.

- 11 (2) Notwithstanding the terms, provisions, or conditions of any franchise or the terms
12 or provisions of any waiver, good cause shall exist for the purposes of a
13 termination, cancellation, or nonrenewal when:

- (a) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days after the manufacturer first acquired knowledge of the failure; ~~and~~ ~~[-]~~

- (b) If the failure by the new motor vehicle dealer, defined in paragraph (a) of this subsection, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer, if the new motor vehicle dealer was apprised by the manufacturer in writing of a failure, and

- 25 1. The notification stated that notice was provided of failure of
26 performance pursuant to this section;
27 2. The new motor vehicle dealer was afforded a reasonable opportunity,

1 for a period of not less than six (6) months, to comply with the criteria;
2 and

3 3. The new motor vehicle dealer did not demonstrate substantial progress
4 toward compliance with the manufacturer's performance criteria during
5 the designated period.

6 (3) The manufacturer shall have the burden of proof under this section.

7 (4) Notwithstanding the terms, provisions, or conditions of any franchise prior to the
8 termination, cancellation, or nonrenewal of any franchise, the manufacturer shall
9 furnish notification of a termination, cancellation, or nonrenewal to the new motor
10 vehicle dealer as follows:

11 (a) In the manner described in subsection (2)(b) of this section; and

12 (b) In not less than ninety (90) days prior to the effective date of the termination,
13 cancellation or nonrenewal; or

14 (c) In not less than fifteen (15) days prior to the effective date of a termination,
15 cancellation, or nonrenewal with respect to any of the following:

16 1. Insolvency of the new motor vehicle dealer, or filing of any petition by
17 or against the new motor vehicle dealer under any bankruptcy or
18 receivership law;

19 2. Failure of the new motor vehicle dealer to conduct its customary sales
20 and service operations during its customary business hours for seven (7)
21 consecutive business days, except for acts of God or circumstances
22 beyond the direct control of the new motor vehicle dealer;

23 3. Fraudulent misrepresentation by the new motor vehicle dealer to the
24 manufacturer or distributor which is material to the franchise;

25 4. Conviction of the new motor vehicle dealer, or any owner or operator
26 thereof, of any felony which is punishable by imprisonment; or

27 5. Revocation of any license which the new motor vehicle dealer is

1 required to have to operate a dealership;

2 (d) In not less than one hundred eighty (180) days prior to the effective date of a
3 termination or cancellation where the manufacturer or distributor is
4 discontinuing the sale of the product line.

5 (5) Notification under this section shall be in writing by certified mail or personally
6 delivered to the new motor vehicle dealer; and shall contain:

7 (a) A statement of intent to terminate, cancel, or not to renew the franchise; and

8 (b) A statement of the reasons for the termination, cancellation, or nonrenewal;
9 and

10 (c) The date on which the termination, cancellation, or nonrenewal takes effect.

11 (6) Upon the termination, nonrenewal, or cancellation of any franchise, pursuant to this
12 section, the new motor vehicle dealer shall be allowed fair and reasonable
13 compensation by the manufacturer for the:

14 (a) New current model year motor vehicle inventory which has been acquired
15 from the manufacturer, and which has not been damaged or altered while in
16 the dealer's possession;

17 (b) Supplies and parts which have been acquired from the manufacturer;

18 (c) Equipment and furnishings provided the new motor vehicle dealer purchased
19 from the manufacturer or its approved sources; and

20 (d) Special tools.

21 Fair and reasonable compensation shall be paid by the manufacturer within ninety
22 (90) days of the effective date of termination, cancellation, or nonrenewal, provided
23 the new motor vehicle dealer has clear title to the inventory and other items and is
24 in a position to convey that title to the manufacturer.

25 (7) In the event of a termination, cancellation, or nonrenewal under this section, and the
26 new motor vehicle dealer is leasing the dealership facilities from a lessor other than
27 the manufacturer, or owns the dealership facilities, the manufacturer shall pay a

1 reasonable rent to the dealer in accordance with and subject to subsection (8) of this
2 section.

3 (8) (a) Reasonable rental value shall be paid only to the extent the dealership
4 premises are recognized in the franchise and only if they are:

- 5 1. Used solely for performance in accordance with the franchise; and
- 6 2. Not substantially in excess of those facilities recommended by the
7 manufacturer.

8 (b) If the facilities are owned by the dealer, the manufacturer will either:

- 9 1. Locate a purchaser who will offer to purchase the dealership facilities at
10 a reasonable price; or
- 11 2. Locate a lessee who will offer to lease the premises for a reasonable
12 term at a reasonable rent; or
- 13 3. Failing the foregoing, lease the dealership facilities at a reasonable
14 rental value for one (1) year.

15 (c) If the facilities are leased by the dealer, the manufacturer will either:

- 16 1. Locate a tenant or tenants satisfactory to the lessor, who will sublet or
17 assume the balance of the lease; or
- 18 2. Arrange with the lessor for the cancellation of the lease without penalty
19 to the dealer; or
- 20 3. Failing the foregoing, lease the dealership facilities at a reasonable rent
21 for one (1) year.

22 (d) The manufacturer shall not be obligated to provide assistance under this
23 section if the dealer:

- 24 1. Fails to accept a bona fide offer from a prospective purchaser, sublessee,
25 or assignee; or
- 26 2. Refuses to execute a settlement agreement with the lessor if the
27 agreement would be without cost to the dealer; or

1 3. Fails to make a written request for assistance under this section within
2 one (1) month of the termination, cancellation, or nonrenewal.

3 (e) If, in an action for damages under this section, the manufacturer or distributor
4 fails to prove either that the manufacturer or distributor has acted in good faith
5 or that there was good cause for the franchise termination, cancellation, or
6 nonrenewal, then the manufacturer or distributor may terminate, cancel, or fail
7 to renew the franchise upon payment to the new motor vehicle dealer of an
8 amount equal to the value of the dealership as an ongoing business location.

9 (9) Notice of termination to a dealer shall entitle the dealer to continue the franchise
10 and the dealer may attempt to sell the franchise until all of the dealer's appeal rights
11 have been exhausted.

12 ➔Section 30. KRS 190A.030 is amended to read as follows:

13 (1) The following conditions shall apply to the area of sales responsibility of a new
14 recreational vehicle dealer included in a dealer agreement between a new
15 recreational vehicle manufacturer and a dealer:

16 (a) A manufacturer or distributor shall not sell a recreational vehicle in this state
17 to or through a dealer without first having entered into a written dealer
18 agreement with a dealer which has been signed by both parties;

19 (b) The new recreational vehicle manufacturer shall designate in the dealer
20 agreement the area of sales responsibility in which the dealer has the
21 exclusive right to display or sell the manufacturer's new recreational vehicles
22 of a line-make included in the dealer agreement;

23 (c) The manufacturer shall not contract with another dealer for the sale of the
24 same line-make included in the designated area for the duration of the
25 agreement; and

26 (d) The area of sales responsibility shall not be reviewed or changed without the
27 consent of both parties until one (1) year after the execution of the dealer

1 agreement.

2 (2) A new recreational vehicle dealer shall not conduct sales activity or display for sale
3 recreational vehicles outside of its designated area of sales responsibility except as
4 provided in KRS 190.030~~(8)(7)~~ and the laws of this state.

5 ➔Section 31. KRS 177.978 is amended to read as follows:

6 (1) All revenues generated from the purchase of decals pursuant to KRS
7 177.990~~(4)(5)~~ and KRS 177.9771(4) and no other taxes or fees normally assessed
8 on motor carriers shall be credited to a special account within the road fund called
9 the "energy recovery road fund" and any additional funds obtained through state
10 appropriation, gifts, grants and federal funds may be credited to the special account,
11 and shall be used, in addition to those road funds normally used for said highways,
12 exclusively by the Transportation Cabinet for those costs attendant to highway
13 purposes for roads designated as part of the extended weight coal haul road system.
14 All funds in the account shall be carried forward at the end of each year.

15 (2) All funds credited to the "coal recovery road fund" shall be transferred to the
16 "energy recovery road fund."

17 ➔Section 32. KRS 65.8840 is amended to read as follows:

18 (1) As used in this section:

19 (a) "Abatement costs" means a local government's necessary and reasonable costs
20 for and associated with clearing, preventing unauthorized entry to, or
21 demolishing all or a portion of a structure or premises, or taking any other
22 action with regard to a structure or premises necessary to remedy a violation
23 and to maintain and preserve public health, safety, and welfare in accordance
24 with any local government ordinance;

25 (b) "Automobile collector" means a person who collects and restores motor
26 vehicles;

27 (c) "Code enforcement board" means an administrative body created and acting

1 under the authority of KRS 65.8801 to 65.8839;

2 (d) "Code enforcement officer" means a city police officer, safety officer, citation
3 officer, county police officer, sheriff, deputy sheriff, university police officer,
4 airport police officer, or other public law enforcement officer with the
5 authority to issue a citation;

6 (e) "Imminent danger" means a condition which is likely to cause serious or life-
7 threatening injury or death at any time;

8 (f) "Local government" means any county, consolidated local government,
9 urban-county government, charter county government, unified local
10 government, or city of any class;

11 (g) "Ordinance" means an official action of a local government body, which is a
12 regulation of a general and permanent nature and enforceable as a local law
13 and shall include any provision of a code of ordinances adopted by a local
14 government which embodies all or part of an ordinance;

15 (h) "Ordinary public view" means a sight line within normal visual range by a
16 person on a public street or sidewalk adjacent to real property;

17 (i) "Owner" means a person, association, corporation, partnership, or other legal
18 entity having a legal or equitable title in real property;

19 (j) "Parts car" means an automobile that is not intended to be operated along
20 streets and roads, but is used to provide parts for the restoration of other
21 automobiles; and

22 (k) "Premises" means a lot, plot, or parcel of land, including any structures upon
23 it.

24 (2) (a) ~~[The provisions of]~~ This section may be enforced through a code enforcement
25 board pursuant to KRS 65.8801 to 65.8839, or by any other means authorized
26 by law, including but not limited to direct enforcement through the enactment
27 of an ordinance as provided in subsection (7) of this section.

1 (b) If ~~the provisions of~~ this section ~~is/are~~ enforced through a code enforcement
2 board pursuant to KRS 65.8801 to 65.8839, ~~the provisions of~~ subsections
3 (8), (9), and (10) of this section shall not apply, and KRS 65.8801 to 65.8839
4 shall supersede any conflicting provisions of this section.

5 (3) Except as provided in subsection (4) of this section, it shall be unlawful for the
6 owner, occupant, or person having control or management of any premises within a
7 local government to permit a public nuisance, health hazard, or source of filth to
8 develop thereon through the accumulation of:

9 (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or
10 salvage materials, excluding inoperative farm equipment;

11 (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550
12 that are junked, wrecked, or inoperative and which are not inhabited;

13 (c) Rubbish; or

14 (d) The excessive growth of weeds or grass.

15 (4) ~~The provisions of~~ Subsection (3)(a) of this section shall not apply to:

16 (a) Junked, wrecked, or inoperative automobiles, vehicles, machines, or other
17 similar scrap or salvage materials located on the business premises of a:

18 1. Licensed automotive recycling dealer as described in KRS
19 190.010~~(33)~~~~(8)~~;

20 2. Used motor vehicle dealer as defined in KRS 190.010~~(36)~~~~(6)~~; or

21 3. Motor vehicle auction dealer as defined in KRS 190.010~~(20)~~~~(11)~~;

22 (b) Junked, wrecked, or inoperative motor vehicles, including parts cars, stored
23 on private premises by automobile collectors, whether as a hobby or a
24 profession, if these motor vehicles and parts cars are stored out of ordinary
25 public view by means of suitable fencing, trees, shrubbery, or other means;
26 and

27 (c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled,

1 operated, managed, or leased by a motor carrier.

2 (5) An owner shall not permit any structure upon his or her premises to become unfit
3 and unsafe for human habitation, occupancy, or use or to permit conditions to exist
4 on the structure or premises which are dangerous or injurious to the health or safety
5 of the occupants of the structure, the occupants of neighboring structures, or other
6 residents of the local government.

7 (6) A local government may provide by ordinance for the abatement and
8 decontamination of a property where a methamphetamine contamination notice has
9 been posted as provided in KRS 224.1-410. Pursuant to subsections (7) and (8) of
10 this section, notice and an opportunity to request a hearing shall be afforded to an
11 owner prior to decontamination of the property. A lien for all fees, charges, and
12 costs incurred by the local government in the enforcement of an ordinance related
13 to decontaminating a property where a methamphetamine contamination notice has
14 been posted pursuant to KRS 224.1-410 shall be placed on the property pursuant to
15 subsection (9) of this section. Notwithstanding subsections (12) and (13) of this
16 section, the costs of abatement and decontamination of a property where a
17 methamphetamine contamination notice has been posted are recoverable throughout
18 the county.

19 (7) Any local government may establish by ordinance reasonable standards and
20 procedures for the enforcement of this section. The procedures shall comply with
21 all applicable statutes, administrative regulations, or codes. Any ordinance
22 establishing these procedures may be enforced by any means authorized by law.
23 Proper notice shall be given to owners before any action is taken pursuant to this
24 section, and, prior to the decontamination of a property where a methamphetamine
25 contamination notice has been posted pursuant to KRS 224.1-410 or the demolition
26 of any unfit or unsafe structure, the opportunity to request a hearing shall be
27 afforded the owner.

- 1 (8) Unless imminent danger exists on the subject premises that necessitates immediate
2 action, the local government shall send, within fourteen (14) days of a final
3 determination after hearing or waiver of hearing by the owner, a copy of the
4 determination to any lien holder of record of the subject premises by first-class mail
5 with proof of mailing. The lien holder of record may, within forty-five (45) days
6 from receipt of that notice, correct the violations cited or elect to pay all civil fines
7 assessed for the violation and all charges and fees incurred by the local government
8 in connection with the enforcement of the ordinance, including abatement costs, as
9 permitted by subsection (9) of this section.
- 10 (9) A local government shall have a lien against the property for all civil fines assessed
11 for the violation and for all charges and fees incurred by the local government in
12 connection with the enforcement of the ordinance, including abatement costs. The
13 affidavit of the code enforcement officer shall constitute prima facie evidence of the
14 amount of the lien and the regularity of the proceedings pursuant to this section, and
15 shall be recorded in the office of the county clerk. The lien shall be notice to all
16 persons from the time of its recording and shall bear interest thereafter until paid.
17 The lien created shall take precedence over all other liens, except state, county,
18 school board, and city taxes, except as provided in subsection (10) of this section.
19 The local government shall possess the lien for ten (10) years following the date of
20 the final, nonappealable order of a code enforcement board or final judgment of the
21 court. The lien may be enforced by judicial proceeding.
- 22 (10) The lien provided in subsection (9) of this section shall not take precedence or
23 priority over a previously recorded lien if:
- 24 (a) The local government failed to provide the lien holder a copy of the
25 determination in accordance with subsection (8) of this section; or
- 26 (b) The lien holder received a copy of the determination as required by subsection
27 (8) of this section, and the lien holder corrected the violations or paid all civil

1 fines assessed for the violation and all charges and fees incurred by the local
2 government in connection with the enforcement of the ordinance, including
3 abatement costs.

4 (11) In addition to the remedy prescribed in subsection (7) of this section or any other
5 remedy authorized by law, the owner of a premises upon which a lien has been
6 attached pursuant to this section shall be personally liable for the amount of the
7 lien, including all civil fines assessed for the violation and all charges, fees, and
8 abatement costs incurred by the local government in connection with the
9 enforcement of the ordinance. The local government may bring a civil action
10 against the owner and shall have the same remedies as provided for the recovery of
11 a debt owed. The failure of a local government to comply with subsection (8) of this
12 section, and the failure of a lien to take precedence over previously filed liens as
13 provided in subsection (10) of this section, shall not limit or restrict any remedies
14 that the local government has against the owner of the premises.

15 (12) ~~The provisions of~~ Subsections (7), (9), and (11) of this section shall not apply to
16 an owner, occupant, or person having control or management of any land located in
17 an unincorporated area if the owner, occupant, or person is not the generator of the
18 rubbish or is not dumping or knowingly allowing the dumping of the rubbish and
19 has made reasonable efforts to prevent the dumping of rubbish by other persons
20 onto the premises.

21 (13) ~~The provisions of~~ This section shall not be enforced by a county government upon
22 any premises situated in an unincorporated portion of the county that is assessed as
23 agricultural land for tax purposes by the property valuation administrator.

24 (14) The right to request a hearing pursuant to this section shall be limited to a period of
25 thirty (30) days after notice has been placed on the property and has been sent by
26 certified mail return receipt requested.

27 ➔Section 33. KRS 15.232 is amended to read as follows:

1 The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys
2 and county attorneys in the investigation and prosecution of offenses under KRS
3 ~~433.892~~~~[433.890]~~ to 433.896, **Sections 1 to 12 of this Act**~~[433.900 to 433.906]~~, and
4 512.090.

5 ➔Section 34. KRS 16.066 is amended to read as follows:

6 (1) The Department of Kentucky State Police shall design the electronic and paper
7 forms utilized in **subsection**~~[KRS 433.890]~~ (1) **of Section 10 of this Act** and any
8 other forms and instructions necessary to implement **Section 10 of this Act**~~[KRS~~
9 ~~433.890]~~.

10 (2) The Department of Kentucky State Police shall make the forms and instructions
11 utilized in subsection (1) of this section available on the department's internet
12 **website**~~[Web site]~~ for downloading by any person.

13 (3) The Department of Kentucky State Police shall make single copies of the forms and
14 instructions utilized in subsection (1) of this section available as public records, at
15 the same rate charged for other public records. The department shall not be required
16 to make multiple copies of the forms or instructions for any person, but may do so
17 at the same rate charged for other public records.

18 (4) Any person may make copies of the forms and instructions required by subsection
19 (1) of this section and may charge for the copies. No person, other than the
20 Commonwealth, shall apply for a copyright on the forms or instructions provided
21 by the Department of Kentucky State Police. The Department of Kentucky State
22 Police may, in the name of the Commonwealth, apply for a copyright on the forms
23 and instructions which it produces pursuant to this section.

24 (5) A purchaser required to generate, maintain, and transmit records pursuant to
25 **Section 10 of this Act**~~[KRS 433.890]~~:

26 (a) 1. May utilize the forms designed by the Department of Kentucky State
27 Police; or

1 2. May generate his or her own forms which shall contain at least the
2 information required by Section 10 of this Act~~[KRS 433.890]~~ and which
3 may contain additional information required by a local government or
4 by the purchaser; or

5 (b) Shall use a form specified by a local government which has adopted an
6 ordinance in accordance with KRS 65.871 provided the form contains at least
7 the information required by Section 10 of this Act~~[KRS 433.890]~~ and which
8 may contain additional information required by the local government.

9 ➔Section 35. KRS 65.871 is amended to read as follows:

10 A city, county, urban-county, charter county, unified county, or consolidated local
11 government may adopt an ordinance relating to the purchase of metals and metal-
12 containing products provided the ordinance:

13 (1) Contains at least the provisions specified in KRS 15.232, 16.066, 433.892~~[433.890]~~
14 to 433.896, Sections 1 to 12 of this Act~~[433.900 to 433.906]~~, and 512.090, but
15 which may contain additional provisions; and

16 (2) Does not specify a lesser penalty for a similar offense than specified in KRS
17 15.232, 16.066, 433.892~~[433.890]~~ to 433.896, and 512.090 or provides that the
18 penalty specified in KRS 433.892~~[433.890]~~ to 433.896 and 512.090 shall apply.

19 ➔Section 36. The following KRS sections are repealed:

20 177.905 Definitions for KRS 177.910 to 177.950.

21 177.920 Permit fee -- Renewal -- Proceeds.

22 ➔Section 37. To allow time to obtain licenses under this Act and notwithstanding
23 Sections 2, 3, 17, and 18 of this Act or any other provision of this Act that may be
24 construed to require a license to engage in business in this Commonwealth, a secondary
25 metals recycler that has a certificate of registration issued by the Department of
26 Professional Licensing of the Public Protection Cabinet or an automobile, vehicle, or
27 machinery recycler, or material recycler that has a permit from the Department of

1 Highways may continue to engage in business in this Commonwealth for a period not to
2 exceed 90 days following the effective date of this Act.

3 ➔Section 38. A secondary metals recycler shall surrender to the Department of
4 Professional Licensing of the Public Protection Cabinet a certificate of registration issued
5 by the department within 30 days of receipt of a license from the Motor Vehicle
6 Commission. If the application for a license is denied, the secondary metals recycler shall
7 immediately surrender the certificate of registration to the department.

8 ➔Section 39. An automobile, vehicle, or machinery recycler, or material recycler
9 shall surrender to the Department of Highways a permit issued by the department within
10 30 days of receipt of a license from the Motor Vehicle Commission. If the application for
11 a license is denied, the automobile, vehicle, or machinery recycler, or material recycler
12 shall immediately surrender the permit to the department.

13 ➔Section 40. Whereas the Commonwealth has a duty to ensure the proper
14 licensure of regulated industries, an emergency is declared to exist, and this Act takes
15 effect upon its passage and approval by the Governor or upon its otherwise becoming a
16 law.