

1 AN ACT relating to motor vehicle racing.

2 WHEREAS, it is the intent of this Commonwealth to promote safe roadways for all
3 drivers and pedestrians and protect the citizens of the Commonwealth from motorists
4 who participate in unpermitted street racing; and

5 WHEREAS, the Commonwealth recognizes the harms caused by street racing, such
6 as substantial risk of physical injury or death, the high costs of health care for those
7 injured while participating in or viewing unpermitted street racing, and damage to motor
8 vehicles and other property; and

9 WHEREAS, imposing penalties of increased fines, motor vehicle impoundment,
10 and motor vehicle forfeiture is necessary to prevent harm to citizens of the
11 Commonwealth, deter criminal behavior, and punish acts of unpermitted street racing;

12 NOW, THEREFORE,

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

14 ➔Section 1. KRS 189.993 is amended to read as follows:

15 (1) Any person who violates KRS 189.045 shall be fined not less than one hundred
16 dollars (\$100) nor more than one thousand dollars (\$1,000).

17 (2) Any person convicted of violating any of the provisions of KRS 189.095 shall be
18 fined sixty dollars (\$60) and costs of prosecution.

19 (3) Any person who violates any provision of KRS 189.205 shall be fined not less than
20 twenty dollars (\$20) nor more than one hundred dollars (\$100).

21 (4) Any person who violates any provision of KRS 189.375 shall be fined not less than
22 twenty dollars (\$20) nor more than one hundred dollars (\$100).

23 (5) Any person who violates KRS 189.505 shall:

24 (a) *For the first offense:*

25 1. Be fined one thousand dollars (\$1,000)~~not less than sixty dollars (\$60)~~
26 ~~nor more than two hundred dollars (\$200)~~ or be imprisoned for not
27 more than thirty (30) days, or both; and

1 2. *In accordance with KRS 70.155 or 82.625, have any motor vehicle*
2 *used by the person in the commission of the violation impounded for*
3 *not less than six (6) months; and*

4 (b) *For a second or subsequent offense:*

5 1. *Be fined two thousand dollars (\$2,000) or be imprisoned for not more*
6 *than thirty (30) days, or both; and*

7 2. *Have any motor vehicle used by the person in the commission of the*
8 *violation forfeited to the Commonwealth and destroyed or sold at*
9 *public auction in accordance with Section 2 of this Act.*

10 (6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a
11 misdemeanor and shall be fined not less than twenty dollars (\$20) nor more than
12 thirty-five dollars (\$35).

13 (7) Any person who violates KRS 189.920 shall be fined not less than one hundred
14 dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the
15 county jail for not more than thirty (30) days, or both. In the case of a private
16 vehicle not authorized to use emergency lights under KRS 189.920, all lighting and
17 other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated
18 and forfeited to the county in which the offense occurred.

19 (8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars
20 (\$60) nor more than five hundred dollars (\$500), or be imprisoned in the county jail
21 for not more than thirty (30) days, or both.

22 (9) (a) Any person who violates KRS 189.940 shall be fined not less than sixty
23 dollars (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in
24 the county jail for not more than six (6) months, or both.

25 (b) In the case of a private vehicle, except as outlined in subsection (11) of this
26 section, all lighting and other equipment used in violation of KRS 189.910 to
27 189.950 shall be confiscated and forfeited to the county in which the offense

1 occurred.

2 (10) (a) If a member of a regular or volunteer fire department, ambulance service, or
3 rescue squad violates ~~any provisions of~~ subsection (6) of KRS 189.940, he
4 or she shall, in addition to any other penalty provided under KRS 189.990 or
5 this section, be:

- 6 1. Immediately dismissed from his or her membership or employment
7 with the fire department, ambulance service, or rescue squad; and
- 8 2. ~~shall be~~ Disqualified from being employed by or being a member of
9 any fire department, ambulance service, or rescue squad in the
10 Commonwealth for a period of three (3) years.

11 (b) Upon conviction of a second offense he or she shall be permanently barred
12 from employment or membership in any fire department, ambulance service,
13 rescue squad, police department, or sheriff's office in the Commonwealth, nor
14 shall he or she be permitted to operate any public safety vehicle as defined in
15 KRS 189.910.

16 (11) (a) Any person who violates KRS 189.950(3) shall be fined one hundred dollars
17 (\$100) for the first offense, two hundred dollars (\$200) for the second offense,
18 and one thousand dollars (\$1,000) for each subsequent offense.

19 (b) Except as provided in paragraph (a) of this subsection, any person who
20 violates KRS 189.950 shall be fined not less than one hundred dollars (\$100)
21 nor more than one thousand dollars (\$1,000) or be imprisoned in the county
22 jail for not more than thirty (30) days, or both. In the case of a privately
23 owned vehicle, all lighting and other equipment used or installed in violation
24 of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in
25 which the offense occurred.

26 (12) Any person who violates any provision of this chapter for which no penalty is
27 otherwise provided shall, upon conviction, be fined not less than twenty dollars

1 (\$20) nor more than one hundred dollars (\$100) for each offense, except that no
2 penalty shall be assessed for a violation of KRS 189.580(1)(b) or (6)(b).

3 (13) ~~A[No]~~ producer or processor of natural resources shall not allow the transporting of
4 natural resources over the highways of the Commonwealth in excess of the weight
5 limits without possessing a resource recovery road hauling permit. Violation for
6 hauling in excess of prescribed limits without possession of a permit or transporting
7 natural resources over prescribed limits of the resource recovery road hauling
8 permit shall be not less than five hundred dollars (\$500) nor more than one
9 thousand dollars (\$1,000) for each violation and shall be deposited in the resource
10 recovery road fund.

11 ➔Section 2. KRS 500.090 is amended to read as follows:

12 (1) Except as provided in KRS 500.092, all property which is subject to forfeiture
13 under any section of the Kentucky Penal Code shall be disposed of in *the following*
14 *manner:*~~[accordance with this section.]~~

15 (a) Property other than firearms which is forfeited under any section of this code
16 may, upon order of the trial court, be destroyed by the sheriff of the county in
17 which the conviction was obtained.~~[.]~~

18 (b) Property other than firearms which is forfeited under any section of this code
19 may, upon order of the trial court, be sold at public auction. The expenses of
20 keeping and selling such property and the amount of all valid recorded liens
21 that are established by intervention as being bona fide shall be paid out of the
22 proceeds of the sale. The balance shall be paid to:

- 23 1. The state, if the property was seized by an agency of the state or peace
24 officer thereof;
- 25 2. The county, if the property was seized by the sheriff or an agency or
26 peace officer of the county;
- 27 3. The Department of Fish and Wildlife Resources, if the property was

1 seized by a peace officer of the Department of Fish and Wildlife or was
2 seized by any other officer for violation of KRS Chapter 150;

3 4. The city, if the property was seized by the city or by an agency or peace
4 officer thereof and the property was delivered to the city property clerk;
5 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten
6 percent (10%) of the proceeds), if the property was seized by the city or
7 by an agency or peace officer thereof and the property was delivered to
8 the sheriff or the county police;[or]
9 6. The state, if the property was seized by any combination of agencies
10 listed above; or

7. The Crime Victims Compensation Board established under KRS

12 49.010, if the property is a motor vehicle seized by any agency or peace
13 officer thereof for a second or subsequent violation of KRS 189.505; [.]

14 (c) 1. Subject to the duty to return confiscated firearms and ammunition to
15 innocent owners pursuant to this section, all firearms and ammunition
16 confiscated by a state or local law enforcement agency, all firearms
17 ordered forfeited by a court, and all abandoned firearms and ammunition
18 coming into the custody of a state or local law enforcement agency and
19 not retained for official use shall be transferred to the Department of
20 Kentucky State Police for disposition as provided by KRS 16.220; ~~16.220~~
21 2. The transfer shall occur not more than ninety (90) days after the
22 abandonment of the firearm or ammunition to the law enforcement
23 agency or not more than ninety (90) days after its confiscation, unless a
24 court requires the firearm or ammunition for use as evidence, in which
25 case it shall be transferred to the Department of Kentucky State Police
26 not more than ninety (90) days following the order of forfeiture by the
27 court or after the court returns the firearm or ammunition from use as

1 evidence;[.]

2 **3.** Prior to the sale of any firearm or ammunition, the law enforcement
3 agency shall make a bona fide attempt to determine if the firearm or
4 ammunition to be sold has been stolen or otherwise unlawfully obtained
5 from an innocent owner and return the firearm and ammunition to its
6 lawful innocent owner, unless that person is ineligible to purchase a
7 firearm under federal law; and[.]

8 **4.** This subsection relating to auction of firearms and ammunition shall not
9 apply to firearms and ammunition auctioned by the Department of Fish
10 and Wildlife that may be sold to individual purchasers residing in
11 Kentucky who are eligible under federal law to purchase firearms and
12 ammunition of the type auctioned;[.]

13 (d) If property which is forfeited under any section of this code is determined by
14 the trial court to be worthless, encumbered with liens in excess of its value, or
15 otherwise a burdensome asset, the court may abandon any interest in such
16 property. Property which is abandoned pursuant to this section shall be
17 returned to the lawful claimant upon payment of expenses for keeping the
18 property; and[.]

19 (e) **1.** Property which is forfeited under any section of this code may, upon
20 order of the trial court, be retained for official use in the following
21 manner;[.]

22 **a.** Property which has been seized by an agency of the state may be
23 retained for official state use;[.]

24 **b.** Property which has been seized by an agency of county, city, or
25 urban-county government may be retained for official use by the
26 government whose agency seized the property or for official state
27 use; and[.]

1 c. Property seized by any other unit of government may be retained
2 only for official state use; and[-]

3 2. The expenses for keeping and transferring such property shall be paid by
4 the unit of government by which the property is retained.

5 (2) Money which has been obtained or conferred in violation of any section of this code
6 shall, upon conviction, be forfeited for the use of the state. This subsection shall not
7 apply when, during the course of the proceeding in which the conviction is
8 obtained, the person from whom said money was unlawfully acquired is identified.

9 (3) Property forfeited under any section of this code shall be disposed of in accordance
10 with this section only after being advertised pursuant to KRS Chapter 424. This
11 subsection shall not apply to property which is designed and suitable only for
12 criminal use or to money forfeited under subsection (2) of this section.

13 (4) The trial court shall remit the forfeiture of property when the lawful claimant:
14 (a) Asserts his or her claim before disposition of the property pursuant to this
15 section;
16 (b) Establishes his or her legal interest in the property; and
17 (c) Establishes that the unlawful use of the property was without his or her
18 knowledge and consent. This subsection shall not apply to a lienholder of
19 record when the trial court elects to dispose of the property pursuant to
20 subsection (1)(b) of this section.

21 (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

22 (6) (a) Before property which has had its identity obscured in violation of KRS
23 514.120 may be sold or retained for official use as provided in this section, the
24 court shall cause a serial or other identifying number to be placed thereon, and
25 a record of the number assigned shall be placed in the court order authorizing
26 the sale or retention of the property.

27 (b) This number shall be assigned, whenever applicable, in consultation with the

3 (c) The purchaser of the property shall be given a document stating that the
4 property had been forfeited pursuant to law and that a number, shown on the
5 document, has been assigned which shall be deemed as compliance of the
6 owner with KRS 514.120.

7 **(d)** When property is returned to an owner pursuant to this section and its identity
8 has been obscured by another person in violation of KRS 514.120, the court
9 shall provide a document to the owner relieving him or her of liability for its
10 continued possession. This document shall serve as evidence of compliance
11 with KRS 514.120 by the owner or any person to whom he or she lawfully
12 disposes of the property.

19 **(b)** If a lawful owner or claimant has been identified or is identifiable, the court
20 shall notify the owner or claimant that the property is being held and specify a
21 reasonable period of time during which the claim may be made or may, in lieu
22 thereof, order the return of the property to the lawful owner or claimant.

23 **(c)** If the lawful owner or claimant does not assert his or her claim to the property
24 after notification or if he or she renounces his or her claim to the property, the
25 property shall be disposed of as provided in this section.

1 forfeiture shall[to] report the same to the trial court before the act of forfeiture
2 occurs.