

1       AN ACT relating to in the line of duty death benefits.

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

3           ➔Section 1. KRS 61.315 is amended to read as follows:

4       (1) As used in this section:

5           (a) "Police officer" means every paid police officer, sheriff, or deputy sheriff,  
6           corrections employee with the power of a peace officer pursuant to KRS  
7           196.037, any metropolitan or urban-county correctional officer with the power  
8           of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any  
9           auxiliary police officer appointed pursuant to KRS 95.445, any police officer  
10          of a public institution of postsecondary education appointed pursuant to KRS  
11          164.950, any school resource officer as defined in KRS 158.441, or any  
12          citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088,  
13          elected to office, or employed by any county, airport board created pursuant to  
14          KRS Chapter 183, city, local board of education, or by the state;

15          (b) "Firefighter" means every paid firefighter or volunteer firefighter who is  
16          employed by or volunteers his or her services to the state, airport board  
17          created pursuant to KRS Chapter 183, any county, city, fire district, or any  
18          other organized fire department recognized, pursuant to KRS 95A.262, as a  
19          fire department operated and maintained on a nonprofit basis in the interest of  
20          the health and safety of the inhabitants of the Commonwealth and shall  
21          include qualified civilian firefighters employed at Kentucky-based military  
22          installations;[and]

23          (c) "Emergency medical services personnel" means any paid or volunteer  
24          emergency medical services personnel who is certified or licensed pursuant to  
25          KRS Chapter 311A and who is employed directly by, or volunteering directly  
26          for, any:

27           1. County;

1                   2. City;

2                   3. Fire protection district created under KRS 75.010 to 75.260; or

3                   4. Emergency ambulance service district created under KRS 108.080 to

4                   108.180;

5                   to provide emergency medical services; **and**

6                   **(d) "Rescue squad personnel" means any paid or volunteer member of a rescue**

7                   **squad, as defined in KRS 39F.010.**

8                   (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with

9                   the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-

10                  county correctional officer with the power of a peace officer pursuant to KRS

11                  446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant

12                  to KRS 95.445, any police officer of a public institution of postsecondary education

13                  appointed pursuant to KRS 164.950, any school resource officer as defined in KRS

14                  158.441, or any citation or safety officer appointed pursuant to KRS 83A.087 and

15                  83A.088, firefighter, or member of the Kentucky National Guard on state active

16                  duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve

17                  component on federal active duty under Title 10 or 32 of the United States Code

18                  who names Kentucky as home of record for military purposes, whose death occurs

19                  on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a

20                  lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving

21                  children, which sum shall be paid by the State Treasurer from the general fund of

22                  the State Treasury. The spouse of any emergency medical services personnel whose

23                  death occurs on or after November 1, 2015, **or spouse of any rescue squad**

24                  **personnel whose death occurs on or after the effective date of this Act,** as a direct

25                  result of an act in the line of duty shall receive a lump-sum payment of eighty

26                  thousand dollars (\$80,000) if there are no surviving children, which sum shall be

27                  paid by the State Treasurer from the general fund of the State Treasury. If there are

1 surviving children and a surviving spouse, the payment shall be apportioned equally  
2 among the surviving children and the spouse. If there is no surviving spouse, the  
3 payment shall be made to the surviving children, eighteen (18) or more years of  
4 age. For surviving children less than eighteen (18) years of age, the State Treasurer  
5 shall:

6 (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and  
7 (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts  
8 at appropriate interest rates for each surviving child until the child reaches the  
9 age of eighteen (18) years.

10 If a child dies before reaching the age of eighteen (18) years, his or her account  
11 shall be paid to his or her estate. If there are no surviving children, the payment  
12 shall be made to any parents of the deceased.

13 (3) The Kentucky Fire Commission shall be authorized to promulgate administrative  
14 regulations establishing criteria and procedures applicable to the administration of  
15 this section as it pertains to both paid and volunteer firefighters, including but not  
16 limited to defining when a firefighter has died in line of duty. Administrative  
17 hearings promulgated by administrative regulation under authority of this  
18 subsection shall be conducted in accordance with KRS Chapter 13B.

19 (4) The Justice and Public Safety Cabinet may promulgate administrative regulations  
20 establishing criteria and procedures applicable to the administration of this section  
21 as it pertains to police officers, any metropolitan or urban-county correctional  
22 officers with the power of a peace officer pursuant to KRS 446.010, any school  
23 resource officer as defined in KRS 158.441, or any jailers or deputy jailers,  
24 including but not limited to defining when one has died in line of duty.  
25 Administrative hearings promulgated by administrative regulation under authority  
26 of this subsection shall be conducted in accordance with KRS Chapter 13B.

27 (5) The Department of Corrections shall promulgate administrative regulations

1       establishing the criteria and procedures applicable to the administration of this  
2       section as it pertains to correctional employees, including but not limited to  
3       defining which employees qualify for coverage and which circumstances constitute  
4       death in the line of duty.

5       (6) The Kentucky Board of Emergency Medical Services shall promulgate  
6       administrative regulations establishing the criteria and procedures applicable to the  
7       administration of this section as it pertains to emergency medical services  
8       personnel, including but not limited to which employees or volunteers qualify for  
9       coverage and which circumstances constitute death in the line of duty.

10      (7) The Department of Military Affairs shall promulgate administrative regulations  
11       establishing the criteria and procedures applicable to the administration of this  
12       section as it pertains to National Guard or Reserve component members, including  
13       but not limited to defining which National Guard or Reserve component members  
14       qualify for coverage and which circumstances constitute death in the line of duty.

15      (8) The Division of Emergency Management shall promulgate administrative  
16       regulations establishing the criteria and procedures applicable to the  
17       administration of this section as it pertains to rescue squad personnel, including  
18       but not limited to defining which members qualify for coverage and which  
19       circumstances constitute death in the line of duty.

20      (9) The estate of anyone whose spouse or surviving children would be eligible for  
21       benefits under subsection (2) of this section, and the estate of any regular member  
22       of the United States Armed Forces who names Kentucky as home of record for  
23       military purposes whose death occurs as a direct result of an act in the line of duty,  
24       shall be exempt from all probate fees, including but not limited to those established  
25       by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or  
26       imposed under KRS 24A.185, 64.012, and 172.180.

27      (10) The benefits payable under this section shall be in addition to any benefits

1 now or hereafter prescribed under any police, sheriff, firefighter's, volunteer  
2 firefighter's, emergency medical services personnel, rescue squad personnel, or  
3 National Guard or Reserve retirement or benefit fund established by the federal  
4 government or by any state, county, or any municipality.

5 (11)~~(10)~~ Any funds appropriated for the purpose of paying the death benefits described  
6 in subsection (2) of this section shall be allotted to a self-insuring account. These  
7 funds shall not be used for the purpose of purchasing insurance.

8 (12)~~(11)~~ (a) For~~the~~ purposes of this section, if a firefighter dies as a result of  
9 cancer, the death shall be a direct result of an act in the line of duty if the  
10 firefighter:

- 11 1. Was a firefighter for at least five (5) consecutive years;
- 12 2. Developed one (1) or more of the cancers listed in paragraph (b) of this  
13 subsection which caused the firefighter's death within ten (10) years of  
14 separation from service as a firefighter;
- 15 3. Did not use tobacco products for a period of ten (10) years prior to the  
16 diagnosis of cancer;
- 17 4. Was under the age of sixty-five (65) at the time of death;
- 18 5. Was not diagnosed with any cancer prior to employment as a firefighter;  
19 and
- 20 6. Was exposed while in the course of firefighting to a known carcinogen  
21 as defined by the International Agency for Research on Cancer or the  
22 National Toxicology Program, and the carcinogen is reasonably  
23 associated with one (1) or more of the cancers listed in paragraph (b) of  
24 this subsection.

25 (b) This subsection~~section~~ shall apply to the following cancers:

- 26 1. Bladder cancer;
- 27 2. Brain cancer;

- 1                   3. Colon cancer;
- 2                   4. Non-Hodgkin's lymphoma;
- 3                   5. Kidney cancer;
- 4                   6. Liver cancer;
- 5                   7. Lymphatic or haematopoietic cancer;
- 6                   8. Prostate cancer;
- 7                   9. Testicular cancer;
- 8                   10. Skin cancer;
- 9                   11. Cervical cancer; and
- 10                  12. Breast cancer.

11                  (c) 1. The provisions of this subsection creating an entitlement to the line of  
12                    duty death benefits shall apply exclusively to this section and shall not  
13                    be interpreted or otherwise construed to create either an express or  
14                    implied presumption of work-relatedness for any type of claim filed  
15                    pursuant to KRS Chapter 342.

16                  2. This paragraph is intended to provide clarification regarding the sole and  
17                    exclusive application of this subsection to only the benefits available  
18                    under this section and shall not be used as a bar or other type of  
19                    limitation to impair or alter the rights and ability of a claimant to prove  
20                    work-relatedness under KRS Chapter 342 or other laws.

21                  ➔ Section 2. KRS 164.2841 is amended to read as follows:

22                  (1) **As used in this section, "rescue squad personnel" means any paid or volunteer**  
23                   **member of a rescue squad, as defined in KRS 39F.010.**

24                  (2) (a) Any person whose parent or any nonmarried widow or widower whose spouse  
25                    was a resident of the Commonwealth of Kentucky upon becoming a law  
26                    enforcement officer, **rescue squad personnel**, firefighter, or volunteer  
27                    firefighter and who was killed while in active service or training for active

1           service or who died as a result of a service-connected disability shall not be  
2           required to pay any matriculation or tuition fee upon admission to any state-  
3           supported university, community college, or vocational training institution.  
4           ~~[The provisions of]~~This subsection shall apply to any firefighter or volunteer  
5           firefighter who is killed or dies under the conditions covered in this subsection  
6           on July 1, 1989, or thereafter.

7           (b) In order to obtain the benefits conferred by paragraph (a) of this subsection,  
8           the parent-child relationship shall be shown by birth certificate, adoption  
9           papers, or other documentary evidence. The spousal relationship shall be  
10           shown by a marriage certificate or other documentary evidence. The parent's  
11           or spouse's service and the cause of death shall be evidenced by certification  
12           from the records of the~~Kentucky~~ Justice and Public Safety Cabinet, the  
13           Division of Emergency Management, the appropriate city or county law  
14           enforcement agency which employed the deceased, the administrative agency  
15           for the fire department or fire protection district recognized for funding under  
16           KRS 95A.262, or the administrative agency having jurisdiction over any paid  
17           firefighters of all counties and cities of all classes.

18           (2) (a) Any person whose parent or any nonmarried widow or widower whose spouse  
19           was an employee participating in a state-administered retirement system, and  
20           not otherwise covered by subsection (1) of this section, and who died as a  
21           result of a duty-related injury as described in KRS 61.621 shall not be  
22           required to pay any matriculation or tuition fee upon admission to any state-  
23           supported university, community college, or vocational training institution.

24           (b) In order to obtain the benefits conferred by paragraph (a) of this subsection,  
25           the parent-child relationship shall be shown by birth certificate, adoption  
26           papers, or other documentary evidence. The spousal relationship shall be  
27           shown by a marriage certificate or other documentary evidence. The parent's

1                   or spouse's service and the cause of death shall be evidenced by certification  
2                   from the records of the employing agency or the appropriate retirement  
3                   system.

4       (3) If one so admitted to a state-supported university, community college, or vocational  
5                   training institution under ~~the provisions of~~ this section shall have obtained a cash  
6                   scholarship paid or payable to the institution, from whatever source, the amount of  
7                   the scholarship shall be applied to the credit of the applicant in the payment of  
8                   incidental expenses of his or her attendance at the institution, and any balance, if  
9                   the terms of the scholarship permit, shall be returned to the applicant.

10                 ➔ Section 3. KRS 342.316 is amended to read as follows:

11       (1) (a) The employer liable for compensation for occupational disease shall be the  
12                   employer in whose employment the employee was last exposed to the hazard  
13                   of the occupational disease. During any period in which this section is  
14                   applicable to a coal mine, an operator who acquired it or substantially all of its  
15                   assets from a person who was its operator on and after January 1, 1973, shall  
16                   be liable for, and secure the payment of, the benefits which would have been  
17                   payable by the prior operator under this section with respect to miners  
18                   previously employed in the mine if it had not been acquired by such later  
19                   operator. At the same time, however, this subsection does not relieve the prior  
20                   operator of any liability under this section. Also, it does not affect whatever  
21                   rights the later operator might have against the prior operator.

22       (b) The time of the beginning of compensation payments shall be the date of the  
23                   employee's last injurious exposure to the cause of the disease, or the date of  
24                   actual disability, whichever is later.

25       (2) The procedure with respect to the giving of notice and determination of claims in  
26                   occupational disease cases and the compensation and medical benefits payable for  
27                   disability or death due to the disease shall be the same as in cases of accidental

1       injury or death under the general provisions of this chapter, except that notice of  
2       claim shall be given to the employer as soon as practicable after the employee first  
3       experiences a distinct manifestation of an occupational disease in the form of  
4       symptoms reasonably sufficient to apprise the employee that he or she has  
5       contracted the disease, or a diagnosis of the disease is first communicated to him or  
6       her, whichever shall first occur.

7       (3) The procedure for filing occupational disease claims shall be as follows:  
8           (a) The application for resolution of claim shall set forth the complete work  
9       history of the employee with a concise description of injurious exposure to a  
10       specific occupational disease, together with the name and addresses of the  
11       employer or employers with the approximate dates of employment. The  
12       application shall also include at least one (1) written medical report  
13       supporting his or her claim. This medical report shall be made on the basis of  
14       clinical or X-ray examination performed in accordance with accepted medical  
15       standards and shall contain full and complete statements of all examinations  
16       performed and the results thereof. The report shall be made by a duly-licensed  
17       physician. The commissioner shall promulgate administrative regulations  
18       which prescribe the format of the medical report required by this section and  
19       the manner in which the report shall be completed.

20       1. For coal-related occupational pneumoconiosis claims, each clinical  
21       examination shall include a chest X-ray interpretation by a National  
22       Institute of Occupational Safety and Health (NIOSH) certified "B"  
23       reader. The chest X-ray upon which the report is made shall be filed  
24       with the application as well as spirometric tests when pulmonary  
25       dysfunction is alleged.

26       2. For other compensable occupational pneumoconiosis claims, each  
27       clinical examination shall include a chest X-ray examination and

1 appropriate pulmonary function tests.

2 (b) To be admissible, medical evidence offered in any proceeding under this  
3 chapter for determining a claim for occupational pneumoconiosis resulting  
4 from exposure to coal dust shall comply with accepted medical standards as  
5 follows:

16 2. Spirometric testing shall be conducted in accordance with the standards  
17 recommended in the "Guides to the Evaluation of Permanent  
18 Impairment" and the 1978 ATS epidemiology standardization project  
19 with the exception that the predicted normal values for lung function  
20 shall not be adjusted based upon the race of the subject. The FVC or the  
21 FEV1 values shall represent the largest of such values obtained from  
22 three (3) acceptable forced expiratory volume maneuvers as corrected to  
23 BTPS (body temperature, ambient pressure and saturated with water  
24 vapor at these conditions) and the variance between the two (2) largest  
25 acceptable FVC values shall be either less than five percent (5%) of the  
26 largest FVC value or less than one hundred (100) milliliters, whichever  
27 is greater. The variance between the two (2) largest acceptable FEV1

1                   values shall be either less than five percent (5%) of the largest FEV1  
2                   value or less than one hundred (100) milliliters, whichever is greater.  
3                   Reports of spirometric testing shall include a description by the  
4                   physician of the procedures utilized in conducting such spirometric  
5                   testing and a copy of the spirometric chart and tracings from which  
6                   spirometric values submitted as evidence were taken. If it is shown that  
7                   the spirometric testing is not valid due to inadequate cooperation or poor  
8                   effort on the part of the claimant, the claimant's right to take or  
9                   prosecute any proceedings under this chapter shall be suspended until  
10                  the refusal or obstruction ceases. No compensation shall be payable for  
11                  the period during which the refusal or obstruction continues.

12                  3. The commissioner shall promulgate administrative regulations pursuant  
13                  to KRS Chapter 13A as necessary to effectuate the purposes of this  
14                  section. The commissioner shall periodically review the applicability of  
15                  the spirometric test values contained in the "Guides to the Evaluation of  
16                  Permanent Impairment" and may by administrative regulation substitute  
17                  other spirometric test values which are found to be more closely  
18                  representative of the normal pulmonary function of the coal mining  
19                  population.

20                  4. The procedure for determination of occupational disease claims shall be  
21                  as follows:

22                   a. Immediately upon receipt of an application for resolution of claim,  
23                   the commissioner shall notify the responsible employer and all  
24                   other interested parties and shall furnish them with a full and  
25                   complete copy of the application.

26                   b. The commissioner shall assign the claim to an administrative law  
27                   judge and shall promptly refer the employee to a duly qualified

1                    "B" reader physician who is licensed in the Commonwealth and is  
2                    a board-certified pulmonary specialist as set forth pursuant to KRS  
3                    342.315 and 342.794(1). The report from this examination shall be  
4                    provided to all parties of record. The employee shall not be  
5                    referred by the commissioner for examination within two (2) years  
6                    following any prior referral for examination for the same disease.

7                    c. The commissioner shall develop a procedure to annually audit the  
8                    performance of physicians and facilities that are selected to  
9                    perform examinations pursuant to this section. The audit shall  
10                   include an evaluation of the physician and facility with respect to  
11                   the timeliness and completeness of the reports and the frequency at  
12                   which the physician's classification of an X-ray differs from those  
13                   of the other physicians of that X-ray. The commissioner shall  
14                   remove a physician or facility from selection consideration if the  
15                   physician or facility consistently renders incomplete or untimely  
16                   reports or if the physician's interpretations of X-rays are not in  
17                   conformity with the readings of other physicians of record at least  
18                   fifty percent (50%) of the time. The report required under this  
19                   subdivision shall be provided to the Interim Joint Committee on  
20                   Economic Development and Workforce Investment on or before  
21                   July 1, 2019, and on or before July 1 of each year thereafter.

22                   d. In coal workers' pneumoconiosis claims, if the physician selected  
23                   by the commissioner interprets an X-ray as positive for  
24                   complicated coal workers' pneumoconiosis, the commissioner  
25                   shall refer the employee to the facility at which the claimant was  
26                   previously evaluated for a computerized tomography scan in order  
27                   to verify the findings. The computerized tomography scan shall be

- e. Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.
- f. The administrative law judge shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.
- g. Unless a voluntary settlement is reached by the parties, or the parties agree otherwise, the administrative law judge shall issue a written determination within sixty (60) days following a hearing. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.
- h. Within thirty (30) days of the receipt of the statement for the evaluation, the employer, insurer, or payment obligor shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the employer, insurer, or payment obligor shall forward the expenses of travel necessary to

attend the evaluation at the state employee reimbursement rates to the employee within seven (7) days. However, if the employee has alleged a pulmonary dysfunction but has not filed spirometric evidence as required by paragraph (a) of this subsection at the time the evaluation is scheduled by the commissioner, the employee will be responsible for fifty percent (50%) of the cost of the evaluation.

5. The procedure for appeal from a determination of an administrative law judge shall be as set forth in KRS 342.285.

10 (4) (a) The right to compensation under this chapter resulting from an occupational  
11 disease shall be forever barred unless a claim is filed with the commissioner  
12 within three (3) years after the last injurious exposure to the occupational  
13 hazard or after the employee first experiences a distinct manifestation of an  
14 occupational disease in the form of symptoms reasonably sufficient to apprise  
15 the employee that he or she has contracted the disease, whichever shall last  
16 occur; and if death results from the occupational disease within that period,  
17 unless a claim therefor be filed with the commissioner within three (3) years  
18 after the death; but that notice of claim shall be deemed waived in case of  
19 disability or death where the employer, or its insurance carrier, voluntarily  
20 makes payment therefor, or if the incurrence of the disease or the death of the  
21 employee and its cause was known to the employer. However, the right to  
22 compensation for any occupational disease shall be forever barred, unless a  
23 claim is filed with the commissioner within five (5) years from the last  
24 injurious exposure to the occupational hazard, except that, in cases of  
25 radiation disease, asbestos-related disease, or a type of cancer specified in  
26 KRS 61.315(12){(11)}(b), a claim must be filed within twenty (20) years from  
27 the last injurious exposure to the occupational hazard.



1       otherwise be payable, falsely represented himself or herself, in writing, as not  
2       having been previously disabled, laid-off, or compensated in damages or otherwise,  
3       because of the occupational disease, or failed or omitted truthfully to state to the  
4       best of his or her knowledge, in answer to written inquiry made by the employer,  
5       the place, duration, and nature of previous employment, or, to the best of his or her  
6       knowledge, the previous state of his or her health.

7       (8) No compensation for death from occupational disease shall be payable to any  
8       person whose relationship to the deceased, which under the provisions of this  
9       chapter would give right to compensation, arose subsequent to the beginning of the  
10       first compensable disability, except only for after-born children of a marriage  
11       existing at the beginning of such disability.

12       (9) Whenever any claimant misconceives his or her remedy and files an application for  
13       adjustment of claim under the general provisions of this chapter and it is  
14       subsequently discovered, at any time before the final disposition of the cause, that  
15       the claim for injury, disability, or death which was the basis for his or her  
16       application should properly have been made under the provisions of this section,  
17       then the application so filed may be amended in form or substance, or both, to  
18       assert a claim for injury, disability, or death under the provisions of this section, and  
19       it shall be deemed to have been so filed as amended on the date of the original filing  
20       thereof, and compensation may be awarded that is warranted by the whole evidence  
21       pursuant to the provisions of this chapter. When amendment of this type is  
22       submitted, further or additional evidence may be heard when deemed necessary.  
23       Nothing this section contains shall be construed to be or permit a waiver of any of  
24       the provisions of this chapter with reference to notice of time for filing of a claim,  
25       but notice of filing a claim, if given or done, shall be deemed to be a notice of filing  
26       of a claim under provisions of this chapter, if given or done within the time required  
27       by this subsection.

- 1 (10) When an employee has an occupational disease that is covered by this chapter, the  
2 employer in whose employment he or she was last injuriously exposed to the hazard  
3 of the disease, and the employer's insurance carrier, if any, at the time of the  
4 exposure, shall alone be liable therefor, without right to contribution from any prior  
5 employer or insurance carrier, except as otherwise provided in this chapter.
- 6 (11) (a) For claims filed on or before June 30, 2017, income benefits for coal-related  
7 occupational pneumoconiosis shall be paid fifty percent (50%) by the  
8 Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242  
9 and fifty percent (50%) by the employer in whose employment the employee  
10 was last exposed to the hazard of that occupational disease.  
11 (b) Income benefits for coal-related occupational pneumoconiosis for claims filed  
12 after June 30, 2017, shall be paid by the employer in whose employment the  
13 employee was last exposed to the hazards of coal workers' pneumoconiosis.  
14 (c) Compensation for all other occupational disease shall be paid by the employer  
15 in whose employment the employee was last exposed to the hazards of the  
16 occupational disease.
- 17 (12) A concluded claim for benefits by reason of contraction of coal workers'  
18 pneumoconiosis in the severance or processing of coal shall bar any subsequent  
19 claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless  
20 there has occurred in the interim between the conclusion of the first claim and the  
21 filing of the second claim at least two (2) years of employment wherein the  
22 employee was continuously exposed to the hazards of the disease in the  
23 Commonwealth.