

Department of
CRIMINAL JUSTICE TRAINING

KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET

2009



Leadership is a behavior, not a position

KENTUCKY STATUTES

2009

GENERAL ASSEMBLY



John W. Bizzack, Ph.D.
Commissioner





The Leadership Institute Branch of the Department of Criminal Justice Training offers a Web-based service to address questions concerning legal issues in law enforcement. Questions can now be sent via e-mail to the Legal Training Section at

docjt.legal@ky.gov

Questions concerning changes in statutes, current case laws and general legal issues concerning law enforcement agencies and/or their officers acting in official capacity will be addressed by the Legal Training Section.

Questions concerning the Kentucky Law Enforcement Council policies and KLEFPF will be forwarded to the DOCJT General Counsel for consideration.

Questions received will be answered in approximately two or three business days.

Please include in the query your name, rank, agency and a daytime phone number in case the assigned attorney needs clarification on the issues to be addressed.



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NOTE:

General Information concerning the Department of Criminal Justice Training may be found at <http://docjt.ky.gov>. Agency publications may be found at <http://docjt.ky.gov/publications.asp>.

In addition, the Department of Criminal Justice Training has a new service on its web site to assist agencies that have questions concerning various legal matters. Questions concerning changes in statutes, current case laws, and general legal issues concerning law enforcement agencies and/or their officers can now be addressed to docjt.legal@ky.gov. The Legal Training Section staff will monitor this site, and questions received will be forwarded to a staff attorney for reply. Questions concerning the Kentucky Law Enforcement Council policies and those concerning KLEFPF will be forwarded to the DOCJT General Counsel for consideration. It is the goal that questions received be answered within two to three business days (Monday-Friday). Please include in the query your name, agency, and a day phone number or email address in case the assigned attorney needs clarification on the issues to be addressed.

2009 Kentucky Legislature

EFFECTIVE DATE OF NEW STATUTES IS
June 25, 2009

NOTE: To reduce length and redundancy, some of these statutes have been edited.

HOUSE BILL 21 AN ACT RELATING TO MOTOR VEHICLES.

KRS 186.010 IS AMENDED TO READ AS FOLLOWS:

...

(4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, **but shall include low-speed vehicles as defined in this section.**

...

(15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, ~~including but excluding tractors and~~ vehicles on which the operator and passengers ride in an enclosed cab. **Motorcycle shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor, or** ~~and excluding~~ a moped as defined in this section.

(16) "Low-speed vehicle" means a motor vehicle that:

(a) Is self-propelled using an electric motor, combustion driven motor, or a combination thereof;

(b) Is four (4) wheeled; and

(c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.

(17) "Alternative-speed motorcycle" means a motorcycle that:

(a) Is self-propelled using an electric motor, combustion driven motor, or a combination thereof;

(b) Is three (3) wheeled;

(c) Has a fully enclosed cab and includes at least one door for entry; and

(d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.

A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

KRS 189.282 Operation of low-speed vehicle on highway.

(1) As used in this section, "low-speed vehicle" shall have the same meaning as in KRS 186.01.

(2) A person may operate a low-speed vehicle on a highway if:

(a) The vehicle meets the federal motor vehicle safety standards for low-speed vehicles set forth in 49 CFR sec. 571.500;

(b) The vehicle displays a seventeen (17) character vehicle identification number that meets the requirements set forth in 49 CFR 565;

(c) The posted speed limit of the highway is thirty-five (35) miles per hour or less;

(d) The operator of the low-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;

(e) The operator has a valid operator's license in his or her possession; and

(f) The low-speed vehicle has not been modified to increase its speed above its original standard manufactured limit.

(3) A low-speed vehicle operating on a highway shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.

(4) A low-speed vehicle operating on a highway is considered to be a motor vehicle as defined in KRS 186.010 and shall be titled in accordance with KRS Chapter 186A and registered as a motor vehicle in accordance with KRS 186.050(3)(a).

(5) An operator of a low-speed vehicle operating on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.

A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

KRS 189.284 Operation of alternative-speed motorcycle on highway

(1) As used in this section, "alternative-speed motorcycle" shall have the same meaning as in KRS 186.010.

(2) A person may operate an alternative-speed motorcycle on a highway if:

(a) The motorcycle bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating;

(b) The motorcycle is equipped with:

1. Headlights, front and rear turn signal lights, taillights, and break lights;

2. Three (3) red reflectors, two (2) of which must be placed on each side as far to the rear of the vehicle as practicable, and one (1) of which must be placed on the rear of the vehicle;

3. An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;

4. A parking brake;

5. A windshield that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.205;

6. A seatbelt assembly that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.209; and

7. A roll bar, roll cage, or crush-proof body design;
- (c) The posted speed limit of the highway is thirty-five (35) miles per hour or less;
- (d) The operator of the alternative-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;
- (e) The operator has a valid motorcycle operator's license in his or her possession; and
- (f) The alternative-speed motorcycle has not been modified to increase its speed above its original standard manufactured limit.
- (3) An alternative-speed motorcycle operating on a highway shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.
- (4) An alternative-speed motorcycle operating on a highway is considered to be a motorcycle as defined in KRS 186.010 and shall be titled in accordance with KRS Chapter 186A and registered as a motorcycle in accordance with KRS 186.050(2).
- (5) An operator of an alternative-speed motorcycle shall be exempt from the protective headgear requirements of KRS 189.285.
- (6) Except as provided in this section, an operator of an alternative-speed motorcycle operating on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.

KRS 190.010 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 190.010 to 190.990:

...

(9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles, including alternative-speed motorcycles as defined in KRS 186.010. Motorcycles shall not include mopeds as defined in this section;

...

(12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways that is self-propelled including low-speed motor vehicles as defined in KRS 186.010, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products;

HOUSE BILL 39 AN ACT RELATING TO MOTOR VEHICLE OPERATOR'S LICENSES.

A NEW SECTION OF KRS 186.400 TO 186.650 IS CREATED TO READ AS FOLLOWS:

KRS 186.415 Application of operator's license by military enlistee -- Conditions.

(1) Notwithstanding KRS 186.450, KRS 186.452 and KRS 186.454, a person who is under eighteen (18) years of age may apply for an operator's license if the person has:

(a) Held an instruction permit for a minimum of one hundred eighty (180) days; and

- (b) Enlisted in the United States Armed Forces or a state National Guard.
(2) An individual eligible to apply for an operator's license under this section shall present proof of enlistment at the time of application.

KRS 186.412 IS AMENDED TO READ AS FOLLOWS:

- (1) (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410 (4).

KRS 186.450 IS AMENDED TO READ AS FOLLOWS:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operator's license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar (\$6) fee pursuant to KRS 186.531.

(3) (a) An instruction permit shall be valid for three (3) years and may be renewed.

(b) Except as provided in KRS 186.415, a person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years ~~at the time of application for an instruction permit~~ shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.

(c) A person who was under eighteen (18) years of age at the time of application for an instruction permit and is eighteen (18) years of age or older shall have the instruction permit a minimum of one hundred eighty (180) days and complete a driver training program under KRS 186.410(4) before applying for an operator's license.

(d) A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license.

(e) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

KRS 186.452 IS AMENDED TO READ AS FOLLOWS:

- (1) Except as provided in KRS 186.415 ~~Beginning April 1, 2007,~~ a person who is under

eighteen (18)~~at least sixteen and one half (16 1/2)~~ years of age may apply for an intermediate license to operate a motor vehicle if the person has:

- (a) Held an instruction permit a minimum of one hundred eighty (180) days without a violation under KRS 186.450(4), (5), or (6), a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1); and
- (b) Presented a statement to the Department of Kentucky State Police signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience, including at least ten (10) hours at night, while accompanied by a person who has attained the age of twenty-one (21) years and holds a valid operator's license occupying the seat beside the applicant.

KRS 186.454 IS AMENDED TO READ AS FOLLOWS:

(1) Except as provided in KRS 186.415~~Beginning October 1, 2007~~, a person with an intermediate license who is under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle if the person has:

~~(a)(1)~~ Held an intermediate license for a minimum of one hundred eighty (180) days without a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, a conviction for a violation of KRS 189A.010(1), or a conviction under KRS 186.452(3), (4), or (5); and

~~(b)(2)~~ Completed a driver training program under KRS 186.410(4).

(2) A person with an intermediate license who is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle if the person has completed a driver training program under KRS 186.410(4).

HOUSE BILL 53 AN ACT RELATING TO THE TITLING OF ALL-TERRAIN VEHICLES.

A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

KRS 186A.074 Titling of all-terrain vehicles.

(1) As used in this section, "all-terrain vehicle" has the same meaning as in KRS 189.010.

(2) The titling of all-terrain vehicles shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under KRS 186A.010.

(3) The Transportation Cabinet, shall promulgate administrative regulations pursuant to KRS Chapter 13A requiring the procedures for titling of all-terrain vehicles to be consistent as far as practicable, with motor vehicle titling. These regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;

(b) Comparison and identification of identification or serial numbers of all-terrain vehicles;

(c) Application of title;

(d) Processing of title applications;

(e) Form of certificate of title;

(f) Notation of security interests on title;

(g) Title lien statements;

(h) Transfer of all-terrain vehicle ownership; and

(i) Duplicate certificate of title.

(4) The Transportation Cabinet shall ensure that the automated motor vehicle and trailer registration and titling system is capable of receiving and discharging a lien associated with the owner of an all-terrain vehicle. An all-terrain vehicle dealer shall not be responsible for the payment of a lien on an all-terrain vehicle which is received as trade-in or otherwise obtained by the dealer.

KRS 186A.070 IS AMENDED TO READ AS FOLLOWS:

(1) Except as otherwise provided, the state resident owner of a vehicle as defined in KRS 186.010(8)(a), manufactured home as defined in KRS 186.650, or trailer which will not be operated upon the highways of this state shall within fifteen (15) days apply for and obtain a certificate of title in his name. He shall not, however, be required to obtain a certificate of registration until the vehicle, manufactured home, or trailer is to be operated upon the highways of this state.

(2) On or after July 1, 2010, any state resident who purchases an all-terrain vehicle as defined in KRS 189.010 shall, apply for and obtain a certificate of title in the purchaser's name within fifteen (15) days of purchase. The owner of an all-terrain vehicle shall not be eligible to obtain a certificate of registration pursuant to KRS 186.020.

(3) On or after July 1, 2010, any state resident who owns an all-terrain vehicle and creates a security interest on that vehicle shall be required to obtain a certificate of title within fifteen (15) days of the creation of the security interest. The perfection and discharge of the security interest shall be governed by KRS 186A.190, 186A.193, 186A.195, 186A.200, 186A.205, 186A.210, and 186A.215. The owner of an all-terrain vehicle shall not be eligible to obtain a certificate of registration pursuant to KRS 186.020.

(4) An all-terrain vehicle shall not be operated upon the roadways of this state, except in accordance with KRS 189.515.

KRS 186A.130 IS AMENDED TO READ AS FOLLOWS:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

(1) Each application for a certificate of title shall be nine dollars (\$9), of which the county clerk shall retain six dollars (\$6) and the Transportation Cabinet shall receive three dollars (\$3).

(2) Each application for a replacement or corrected certificate of title shall be six dollars (\$6), of which the county clerk shall retain four dollars (\$4) and the Transportation Cabinet shall receive two dollars (\$2). If a corrected certificate must be issued because of an error of the county clerk or the Department of Vehicle Regulation, there shall be no charge.

(3) Each application for a speed title shall be twenty-five dollars (\$25), of which the county clerk shall retain five dollars (\$5) and the Transportation Cabinet shall receive twenty dollars (\$20).

(4) (a) Each application for a certificate of title for an all-terrain vehicle shall be fifteen dollars (\$15), of which the county clerk shall retain six dollars (\$6) and the Transportation Cabinet shall receive nine dollars (\$9).

(b) Each application for a replacement or corrected certificate of title for an all-terrain vehicle shall be ten dollars (\$10), of which the county clerk shall retain four dollars (\$4) and the Transportation Cabinet shall receive six dollars (\$6). If a corrected certificate must be issued because of an error of the county clerk or the Department of Vehicle Regulation, there shall be no charge.

KRS 186A.245 IS AMENDED TO READ AS FOLLOWS:

- (1) If a certificate of title is lost, stolen, mutilated, or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate shall promptly make application to the county clerk for and may obtain a duplicate, upon furnishing information satisfactory to the Department of Vehicle Regulation. The duplicate certificate of title shall contain appropriate words or symbols to indicate that it is a duplicate. Each application for a duplicate certificate of title shall be six dollars (\$6), of which the county clerk shall retain four dollars (\$4), and the Transportation Cabinet two dollars (\$2). *Each application for a duplicate certificate of title for an all-terrain vehicle shall be ten dollars (\$10), of which the county clerk shall retain four dollars (\$4) and the Transportation Cabinet shall receive six dollars (\$6).* It shall be mailed to the owner.
- (2) The Department of Vehicle Regulation shall make provisions for production and issuance of a duplicate title if update of information is requested. The provisions shall be generally consistent with the procedures for production and issuance of a certificate of title in the first instance as provided in this chapter.
- (3) A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the Department of Vehicle Regulation.
- (4) Application for documents provided for by this section shall be made to the county clerk upon forms provided to him by the Department of Vehicle Regulation.

HOUSE BILL 53 AN ACT RELATING TO FIREARMS CERTIFICATION

KRS 237.140 IS AMENDED TO READ AS FOLLOWS:

- (1) (a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of Kentucky State Police.
- (b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon license program under KRS 15.383 and collected by the Department of Kentucky State Police pursuant to that section.
- (c) The Department of Kentucky State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142.
- (2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:
 - (a) Evidence of retired status to the commissioner of the Department of Kentucky State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;
 - (b) Evidence of successful completion of firearms qualification required under this section; and
 - (c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.
- (3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of Kentucky State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of Kentucky State Police or the retiree.
- (4) (a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size

silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.

(b) The rounds fired pursuant to paragraph (a) of this subsection shall be done under the supervision of:

1. A firearms instructor of the retiree's former employing agency;
2. *A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;*
3. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or
- ~~4.~~ A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.

(c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(e) No employer or appointing authority of a firearms instructor *who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course,* Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in any way limit the instructor from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty.

HOUSE BILL 129 AN ACT RELATING TO THE SALE OF ALCOHOL TO MINORS.

KRS 244.080 IS AMENDED TO READ AS FOLLOWS:

A retail licensee, *or the licensee's agent, servant, or employee* shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, *possessed by,* or delivered to:

- (1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge

or as a defense to the charge itself.

(2) A person actually or apparently under the influence of alcoholic beverages.

(3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(4) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony.

KRS 244.085 IS AMENDED TO READ AS FOLLOWS:

...

As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

(a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery, distillery or brewery or winery tour, ~~establishment where prebooked concerts with advance ticket sales are held~~, convenience store, grocery store, drug store, or similar establishment. ~~For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;~~

(b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; ~~or~~

(c) Written approval has been granted by the office to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state director shall approve or deny the request in writing; or

(d) The usual and customary business of the establishment is an entertainment facility where pre-booked concerts are held. For the purpose of this subsection, house bands, disc

jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this subsection the licensee shall:

1. Maintain the responsibility of all ticket sales;
2. Sell the concert tickets directly to the patron or have a contractual agreement with a vendor or promoter to sell the concert tickets for the licensee;
3. Maintain records of all gross concert ticket sales. The concert tickets shall have the name of the band(s) or performer(s) as well as the date of the concert;
4. Permit minors to be in the area where the concert is taking place only during the time of the concert; and
5. Prohibit minors on the premises until thirty (30) minutes prior to the concert and prohibit minors from remaining on the premises more than thirty (30) minutes after the concert performance has ended.

(7) Except as provided in subsection (6) of this section, a licensee or the licensee's~~this or her~~ agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

...

HOUSE BILL 262 AN ACT RELATING TO PROPERTY TAXES AND DECLARING AN EMERGENCY.

NOTE: This bill applies only to sheriff's offices, and has been heavily edited. Many parts of this law do not become mandatory until January 1, 2010, and the version below is what will be in place at that time. For further information, please confer with local legal counsel.

KRS 134.010 IS AMENDED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Certificate of delinquency" means a tax claim on real property for taxes that:
 - (a) Remains unpaid on April 15 under the regular collection schedule, or three (3) full months and fifteen (15) days from the date the taxes were due under an alternative collection schedule as determined under KRS 134.415; and
 - (b) Has been filed with the county clerk pursuant to KRS 134.122;
- (2) "Chief executive" means the elected head of the executive branch of government in a city or county;
- (3) "Commissioner" means the commissioner of the department~~{revenue.}~~
- (4) "County" includes counties, urban-county governments, charter county governments, consolidated local governments, and unified local governments;
- ~~(5)~~~~(2)~~ "Department" means the Department of Revenue~~;~~
- (6) "Governing body of a county" means the elected legislative body of a county;
- (7) "Omitted property" means property described in KRS 132.290;
- ~~(8)~~~~(3)~~ "Real property" includes all lands within this state and improvements thereon.
- ~~(4)~~ "Personal property" includes every species and character of property, tangible and intangible, other than real property~~;~~
- (9) "Personal property certificate of delinquency" means a personal property tax claim

that:

(a) Remains unpaid as of April 15 under the regular collection schedule or three (3) full months and fifteen (15) days from the date the taxes were due under an alternative collection schedule as determined under KRS 134.415; and

(b) Has been filed with the county clerk pursuant to KRS 134.122;

(10) (a) "Property taxes" means the ad valorem taxes due the state, a county, a county school district, or other taxing district.

(b) "Property taxes" also includes any other ad valorem taxes imposed by a governmental entity that are included on the same property tax bill as the levies listed in paragraph (a) of this subsection and that the sheriff is responsible for collecting either through a statutory requirement or agreement with a taxing district;

(11) "Real property" includes all lands within the state and improvements thereon;

(12)(5) "Taxpayer" means the owner of property on the assessment date;~~any person made liable by law to file a return or pay a tax.~~

(13)(6) "Tax claim" includes,~~in addition to,~~ the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in KRS 134.420~~subsection (1) of KRS 134.420~~ and any other~~such items or~~ expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time; and

(14) "Third-party purchaser" means a purchaser of a certificate of delinquency.

~~(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.~~

~~(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.~~

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.015 Due dates -- Person responsible for payment --- Regular and alternative collections schedules -- Discount.

(1) All property taxes are due and payable on or before December 31 of the assessment year except as otherwise provided by law. Payment shall be made to the sheriff as provided in KRS 134.119 unless otherwise provided by law.

(2) (a) Any taxpayer who pays the property taxes in full by November 1 of the assessment year shall receive a two percent (2%) discount on the amount otherwise due.

(b) Taxes paid in full between November 2 and December 31 of the assessment year shall be paid at the amount reflected on the tax bill without discount or penalty.

(c) Taxes paid in full between January 1 and January 31 of the year following the assessment year shall be subject to a penalty of five percent (5%) of the taxes due and unpaid.

(d) Taxes paid after January 31 of the year following the assessment year shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid.

(3) If the regular collection schedule established by subsections (1) and (2) of this section is delayed, the department may establish an alternative collection schedule. Taxes shall be due two (2) full months from the date the tax bills are mailed. The alternative collection schedule shall allow a two percent (2%) discount for all tax bills paid in full within one (1) full month of the date the tax bills were mailed. Upon expiration of the discount

period, the face amount reflected on the tax bill without discount or penalty shall be due for the next full month. Payments made within one (1) month following the face amount period shall be subject to a penalty of five percent (5%) of the taxes due and unpaid. Payments made after the five percent (5%) penalty period shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid.

(4) All taxes due under this section and all fees, penalties, and interest thereon are a personal debt of the taxpayer on the assessment date, from the time the tax becomes due until paid.

(5) The lien that attaches to property on which taxes have become delinquent under KRS 134.420 shall continue as provided in KRS 134.420, from the time the taxes become delinquent until the taxes are paid or the eleven (11) year period established by KRS 134.420 expires, regardless of who owns the property.

(6) A tax bill issued against omitted property, or an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall be due the day the bill is prepared and shall be considered delinquent on that date. If the tax bill is not paid within one (1) full month of the due date, an additional penalty of ten percent (10%) of the tax, fees, penalties, and interest due shall be added to the tax bill. The laws relating to delinquent taxes on the same class of property or taxpayers involved shall apply to delinquent omitted tax bills unless otherwise provided by law.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.119 Sheriff is collector of taxes -- Means of payment -- Penalties -- Sale of personal property -- Compensation of sheriff.

(1) (a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person. The sheriff may contract to collect taxes on behalf of cities, independent school districts, or any other governmental unit with the authority to levy a property tax, if the enabling legislation authorizing imposition of the tax permits the governmental unit to contract for the performance of tax collection duties.

(b) The provisions of this chapter relating to the collection of property taxes shall apply to other property tax collectors to the extent that the governing body of the city, school district, or taxing district appointing the tax collector has not adopted alternative tax collection processes and procedures.

(2) Payment to the sheriff may be provided by any commercially acceptable means. The sheriff may limit the acceptable methods of payment to those that ensure that payment cannot be reversed or nullified due to insufficient funds.

(3) (a) The sheriff shall accept payment from the day on which the tax bills are mailed by the sheriff to the taxpayer as provided in KRS 133.220 and 133.230, through the day on which the sheriff files the uncollected tax claims with the county clerk pursuant to KRS 134.122. During this time period, the sheriff may accept full or partial payment for any outstanding taxes or tax claims.

(b) All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. Partial payments shall be credited against the total amount due and shall be apportioned by the sheriff among the entities included on the tax bill in the same proportion the amount due to each bears to the amount paid.

(c) The acceptance of any payment before the taxpayer's tax liability has been finally

determined shall not imply that the payment was the correct amount due and shall not preclude the assessment and collection of additional taxes due or the refund of any part of the amount paid that is in excess of the amount determined to be due.

(d) The sheriff may accept payment of any tax or tax claim from any other person on behalf of the taxpayer. Any person making a payment on behalf of a taxpayer may, upon the written notarized request of the taxpayer, be treated as a transferee as provided in KRS 134.121.

(e) The sheriff may accept payment of any amount due on a delinquent tax claim from any of the persons described in subparagraphs 1., 2., and 3. of this paragraph without permission of the taxpayer. The person seeking to make the payment shall provide sufficient proof to the sheriff that he or she meets the requirements to pay under this paragraph. The sheriff shall be held harmless if he or she relies upon information provided and accepts payment from a person not qualified to pay under this paragraph. Any person listed in subparagraph 1., 2., or 3. of this paragraph who makes full payment, may, upon written request to the sheriff, be treated as a transferee under the provisions of KRS 134.121:

1. Any person holding a legal or equitable estate in the real or personal property upon which the delinquent taxes are due, other than a person whose only interest in the property is a lien resulting from ownership of a prior year certificate of delinquency;

2. A tenant or lawful occupant of real property, or a bailee or person in possession of any personal property upon which the delinquent taxes are due; or

3. Any person having a mortgage on real property or a security interest in real or personal property upon which the delinquent taxes are due.

(4) If, upon expiration of the five percent (5%) penalty period established by subsection (2)(c) of KRS 134.415, the real property tax delinquencies of a sheriff exceed fifteen percent (15%) of the amount charged to the sheriff for collection, the department may require the sheriff to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following notification from the department that such efforts shall be made, the department may assume responsibility for collecting the delinquent taxes. If the department assumes the responsibility for collecting delinquent taxes, the department shall receive the amounts that would otherwise be paid to the sheriff as fees or commissions for the collection of tax bills.

(5) In collecting delinquent taxes, the sheriff:

(a) May distraint and sell personal property owned by a delinquent taxpayer in the amount necessary to satisfy the delinquent tax claim. The sale shall be made under execution for cash. If the personal property of the delinquent taxpayer within the county is not sufficient to satisfy the delinquent tax claim, the sheriff may sell so much of the personal property as is available; and

(b) Shall retain any amounts that come into his or her possession payable to a delinquent taxpayer, other than claims allowed for attendance as a witness, and shall apply such amounts to the amount due on the delinquent tax claim.

(6) (a) As compensation for collecting property taxes the sheriff shall be paid the following amounts, regardless of whether the amounts are collected by the sheriff prior to filing the tax claims with the county clerk, or by the county clerk after the tax claims become certificates of delinquency or personal property certificates of delinquency:

1. From the Commonwealth the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the Commonwealth;

2. From counties the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the counties;

3. The sheriff shall be compensated as provided by law or as negotiated if negotiation is permitted by law, for collecting taxes on behalf of any taxing district;

4. The sheriff shall be compensated as provided in KRS 160.500 for collecting school district taxes; and

5. The sheriff shall be compensated as provided in KRS 91A.070 for collecting taxes on behalf of any city.

(b) The sheriff shall include the amounts he or she is entitled to under the provisions of paragraph (a) of this subsection as part of the delinquent tax claims filed with the county clerk. The amount so included shall become a part of the certificate of delinquency, and shall be paid by the person paying the certificate of delinquency rather than the taxing jurisdiction for which the taxes were collected.

(7) As additional compensation for the collection of delinquent taxes, the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee shall be added to the total amount due, and shall be paid by the person paying the tax claim if payment is made to the sheriff, or the certificate of delinquency or personal property certificate of delinquency if payment is made after the tax claim has been filed with the county clerk.

KRS 134.450 IS AMENDED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS Chapter 134 to the contrary:

(a) The provisions of subsection (4) of this section shall apply to the purchase and sale of delinquent tax claims and certificates of delinquency related to assessments made in calendar year 2008; and

(b) All provisions of KRS Chapter 134 not in conflict with the provisions of subsection (4) of this section shall continue to apply for assessments made in calendar year 2008.

(2) Except as provided in subsection (4) of this section, the sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars (\$200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the Department of Revenue to collect delinquent taxes. If the county attorney has not contracted with the Department of Revenue to collect delinquent taxes, the Department of Revenue shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of

the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Department of Revenue, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

~~(3)~~~~(2)~~ If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser. ~~(3)~~The sheriff shall file all ***delinquent tax claims***~~[certificates of delinquency]~~ in the county clerk's office immediately upon completion of the tax sale~~, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale,~~ and the clerk shall retain them.

(4) (a) 1. In a consolidated local government, the sheriff's sale required by subsection (2) of this section shall not be held, and the sheriff shall not purchase the bills on behalf of the taxing jurisdictions as required by subsection (3) of this section. Instead, within fourteen (14) working days of April 15, the sheriff shall file all delinquent tax claims in the county clerk's office.

2. In all other counties, the sheriff's sale required by subsection (3) of this section may be suspended upon approval of the governing body of the county and agreement of the county clerk and sheriff. The governing body of the county seeking to suspend the sheriff's sale shall adopt a resolution or an ordinance approving suspension of the sale upon certification from the county clerk and the sheriff that his or her office has the capacity to accommodate the suspension of the sale, and that the recordkeeping system for his or her office has or will be updated in sufficient time to address the additional reporting duties and requirements resulting from the suspension of the sale. Upon suspension of the sheriff's sale pursuant to this subparagraph, the chief executive of the county shall notify the department, and the sheriff shall, on April 15, or by the fifteenth day of the fourth month after the taxes become due under an alternative collection schedule, file all delinquent tax claims in the county clerk's office.

(b) If the sheriff's sale is suspended under paragraph (a) of this subsection, the sheriff shall receive his or her compensation as provided in KRS 134.290, any compensation he or she is entitled to for the collection of school district taxes, and any amount he or she is entitled to for collecting taxes for any other taxing districts, as well as the additional compensation provided by KRS 134.430, whether the taxes are collected by the sheriff prior to the filing of the tax claims with the county clerk pursuant to this subsection or by the county clerk after the tax claims are filed and become certificates of delinquency. The amount due the sheriff on delinquent tax claims shall be included by the sheriff as part of the delinquent tax claims filed with the county clerk, shall become part of the certificate of delinquency, and shall be paid by the person paying the certificate of delinquency.

(c) Upon filing with the county clerk, the tax claims shall become certificates of delinquency, and the department, rather than the sheriff, shall be responsible for the collection of taxes related thereto.

(d) 1. The county clerk shall conduct a sale of the certificates of delinquency in accordance with guidance provided by the department. No person other than the delinquent taxpayer may pay a certificate of delinquency prior to the sale.

2. The guidance shall establish a fair process that allows all persons seeking to

participate in the sale an equal opportunity to do so.

3. Preference in purchasing a certificate of delinquency shall be given to the holder of a certificate of delinquency from a prior year on the same property. If more than one (1) third party holds an outstanding certificate of delinquency from a prior year, the person holding the certificate of delinquency for the most recent tax year shall be given preference.

(e) The county clerk, rather than the sheriff, shall advertise the sale as required by KRS 134.440 and shall receive for those services the compensation provided in KRS 134.440(2).

(5) The county clerk shall acknowledge receipt of the delinquent tax claims [certificates] by signing a receipt form that has been prepared in a manner prescribed by the department [of Revenue].

(6) If the sheriff fails to file the delinquent tax claims, the sheriff [certificates, he] shall be liable on his or her official bond for the aggregate amount of the delinquent tax claims not filed with the county clerk [certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original].

~~(7)~~(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

~~(8)~~(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.121 Transferees -- Rights and obligations.

(1) (a) Upon receipt of a written request by a person who pays taxes on behalf of another to be treated as a transferee and verification that the request meets the requirements of subsection (3)(d) or (e) of KRS 134.119, the sheriff shall issue a certificate of transfer in accordance with the provisions of this section.

(b) 1. Any person making a request and having taxes paid on his or her behalf under this section; and

2. The heirs and assigns of the person; shall be estopped from claiming any irregularity in the tax or any proceedings related to the tax prior to the time of transfer.

(2) The sheriff shall give a certificate of transfer to the person making the payment. The certificate of transfer shall specify the:

(a) Sheriff's name;

(b) County where the property is located;

(c) Address of the property;

(d) Amount paid;

(e) Name of the person making the payment;

(f) Account the payment was credited to; and

(g) Person in whose name the property is listed as of January 1.

(3) A transferee shall be subrogated to the lien provided for in KRS 134.420, and shall

have the same rights and powers of enforcing collection as provided in subsection (2) of KRS 134.546.

(4) The holder of a certificate of transfer shall have the certificate of transfer required by subsection (2) of this section entered on the record of encumbrances on real estate of the county in which the certificate was issued. Failure to enter the certificate of transfer shall result in a loss of the lien upon the property, if the property is transferred in good faith and for valuable consideration before recording and without notice of the existence of the certificate of transfer. The county clerk may charge a fee pursuant to KRS 64.012 for the recording and release of a certificate of transfer.

(5) When a transferee has acquired a certificate of transfer that is for any reason invalid, the state, county, city, or taxing district that received payment shall reimburse the transferee by paying to him or her the amount of principal, interest, penalties, and costs expended by him or her in the purchase.

(6) (a) Any person holding a lien upon property covered by a certificate of transfer may, at any time during the life of the certificate if there has been no sale of property for taxes, cancel the certificate by paying to the last recorded owner of the certificate of transfer, or to his or her order, the amount of the certificate and interest, at the tax interest rate established by KRS 131.183 from the date of the certificate.

(b) If both real and personal property are covered by one (1) certificate of transfer, the holder of a lien on any item of the property may obtain a cancellation of the lien on the certificate of transfer against the property on which he or she has a lien by paying to the last recorded owner of the certificate of transfer, before a tax sale under a certificate of delinquency, the amount applicable to the personal property included in the tax referred to by the certificate of transfer, plus the pro rata part of the face value of the certificate of transfer applicable to the property on which release is desired, plus interest on the amount of the certificate of transfer at the tax interest rate established by KRS 131.183.

(c) If two (2) or more items of property are included in one (1) certificate of transfer, the transferee may release any item or items. The release shall not affect the lien of the certificate of transfer on the remaining items, but shall be a release only to the extent of the amount of taxes applying to the parcel or parcels released.

(d) The provisions of law that apply to the rights of the owner of land sold for taxes by the state, county, city, or taxing district shall also apply to the owner's rights under sales of land made to satisfy a certificates of transfer, and the owner of the land or his or her heirs or assigns may redeem the property within the same length of time, and upon the same terms, as are provided by law for redeeming property sold for taxes.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.122 Transfer of certificates of delinquency by sheriff to clerk.

(1) (a) The sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due under an alternative collection schedule, file all tax claims on real and personal property remaining in his or her possession with the county clerk, except that in a consolidated local government the sheriff shall have fourteen (14) working days from the required filing date to file the delinquent tax claims with the county clerk.

(b) The content of the information provided by the sheriff to the county clerk shall be determined by the department through the promulgation of an administrative regulation.

(c) The county clerk shall acknowledge receipt of the tax claims by providing the sheriff

with a receipt in the format required by the department.

(d) If the sheriff fails to file the tax claims as required by this subsection, the sheriff shall be liable on his or her bond for the aggregate amount of the tax claims not filed with the clerk.

(2) (a) Upon filing with the county clerk, a real property tax claim shall become a certificate of delinquency and a personal property tax claim shall become a personal property certificate of delinquency, and the department, rather than the sheriff, shall be responsible for the collection of all amounts due in accordance with KRS 134.504.

(b) Certificates of delinquency and personal property certificates of delinquency filed with the county clerk are owned by the taxing jurisdictions whose taxes are included as part of the certificate of delinquency or personal property certificate of delinquency.

(c) The clerk shall accept payment for certificates of delinquency as provided in KRS 134.125 and KRS 134.127.

(d) A certificate of delinquency or personal property certificate of delinquency shall include:

1. The face amount of the tax due;

2. The ten percent (10%) penalty as provided in KRS 134.415;

3. The sheriff's commission and the ten percent (10%) sheriff's add-on as provided in KRS 134.119; and

4. Any advertising costs incurred by the county as provided in KRS 134.119.

(e) The certificate of delinquency or personal property certificate of delinquency shall be prima facie evidence that:

1. The property represented by the certificate of delinquency or personal property certificate of delinquency was subject to the taxes levied thereon, and that the property was assessed as required by law;

2. The tax claim was valid and correct in all respects; and

3. The taxes were not paid any time before the establishment of the certificate of delinquency or personal property certificate of delinquency.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.125 Interest on certificates of delinquency.

(1) A certificate of delinquency or personal property certificate of delinquency shall bear simple interest at twelve percent (12%) per annum calculated on the base amount established by subsection(2)(d) of KRS 134.122 from the date it is established until paid. A fraction of a month shall be counted as an entire month.

(2) If a certificate of delinquency is paid by a third-party purchaser, the amount paid by the third-party purchaser shall become the base amount upon which interest is calculated from the date of purchase until paid.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.126 Duties of the clerk regarding certificates of delinquency.

(1) (a) The county clerk shall receive and record payments for all certificates of delinquency and personal property certificates of delinquency filed by the sheriff pursuant to KRS 134.122.

(b) The county clerk may accept payment by any commercially acceptable means. The

county clerk may limit the acceptable methods of payment to those that ensure that the payment cannot be reversed or nullified due to insufficient funds.

(2) The county clerk shall give a receipt to the person making payment.

(3) The county clerk shall report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly.

(4) The county clerk shall allocate payments among the various entities entitled to a portion of the payment. The county clerk shall, at the time he or she makes the reports required by subsection (3) of this section:

(a) Pay to the department for deposit in the State Treasury all moneys received due the state;

(b) Pay to the county treasurer all moneys received due the county;

(c) Pay to the authorized officers of the taxing districts the amount due each taxing district; and

(d) Pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto.

(5) (a) Upon full payment of a certificate of delinquency or personal property certificate of delinquency owned by the state, county, and taxing districts, the county clerk shall note on the certificate the name and address of the person making the payment, the amount paid, and any other information the department may require. The clerk shall mark the certificate of delinquency or personal property certificate of delinquency paid in full.

(b) If payment in full is made by a person other than the person primarily liable on the certificate, the person making the payment may request that the payment be treated as an assignment. Upon such request, the county clerk shall:

1. Note the assignment on the certificate of delinquency or personal property certificate of delinquency;

2. Record the encumbrance represented by the certificate of delinquency in the same manner as a notice of lis pendens; and

3. Include as part of the encumbrance recording the information required by subsection (3)(c) of KRS 134.490.

For recording the assignment and encumbrance, the county clerk shall receive the fee provided in KRS 64.012.

(c) If a person other than the person primarily liable on the certificate does not request the payment to be treated as an assignment, he or she shall be treated in the same manner as the person primarily liable on the certificate, and any payment made pursuant to this subsection shall not constitute an assignment of the certificate. The payor shall not be subrogated to the lien of the state, county, and taxing districts as provided in subsection (8) of this section, and shall not be considered a third-party purchaser under the provisions of this chapter, or a transferee under KRS 134.121.

(6) After the initial recording of an assignment of a certificate of delinquency or personal property certificate of delinquency as provided in subsection (5)(b) of this section, all subsequent actions relating to that certificate of delinquency or personal property certificate of delinquency, including assignments and releases shall be made in accordance with the general laws and procedures governing land records, except the additional information required by subsection (3)(c) of KRS 134.490 shall be included. The applicable

fees established by KRS 64.012 shall apply.

(7) A certificate of delinquency or personal property certificate of delinquency shall be assignable. Failure of an assignee to record the assignment shall render the claim of such person to any real estate represented thereby inferior to the rights of other bona fide purchasers, payors, or creditors.

(8) Any person other than the person primarily liable on a certificate who:

(a) Pays the certificate of delinquency in full, and who requests to the county clerk that the payment be treated as an assignment pursuant to subsection (5)(b) of this section; or

(b) Is the assignee of such a person, if the assignment has been recorded as required by this section or KRS 134.127 shall be subrogated to the lien priority of the state, county, and taxing districts as provided in KRS 134.420, and the amount due may be collectible as provided in subsection (2) of KRS 134.546.

(9) As compensation for collection of payments on certificates of delinquency, personal property certificates of delinquency, and other delinquent taxes, and the processing of delinquent property tax payments, the county clerk shall be paid ten percent (10%) of the amount due each taxing unit for each certificate of delinquency, personal property certificate of delinquency, or other delinquent tax claim. The fee shall be added to the amount of the tax claim and shall be paid by the person paying the tax claim.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.127 Payment of amounts due on certificates of delinquency to the clerk.

(1) (a) The following persons may pay to the county clerk at any time the total amount due on a certificate of delinquency or personal property certificate of delinquency that is owned by the taxing jurisdictions and in the possession of the county clerk. It shall be the responsibility of the person seeking to pay the county clerk to provide sufficient proof to the county clerk that he or she meets the requirements to pay under this paragraph. The county clerk shall be held harmless if he or she relies upon information provided and accepts payment from a person not qualified to pay under this paragraph. The county clerk may also accept partial payments from these persons:

1. The person primarily liable on the certificate of delinquency or personal property certificate of delinquency, or a person paying on behalf of the person primarily liable on the certificate, provided that a person paying on behalf of the person primarily liable on the certificate under this paragraph shall, notwithstanding the provisions of subsection (5) of KRS 134.125, be treated in the same manner as the person primarily liable on the certificate and shall not be treated as an assignee or a transferee under the provisions of this chapter; and

2. The following persons may pay a certificate of delinquency or personal property certificate of delinquency that relates to the specific property in which he or she has an interest, other than a person whose only interest in the property is an interest resulting from a prior year certificate of delinquency:

a. Any person having a legal or equitable estate in real property subject to a certificate of delinquency;

b. A tenant or lawful occupant of real property, or a bailee or person in possession of any personal property; or

c. Any person having a mortgage on real property or a security interest in real or personal property.

Upon full payment of a certificate of delinquency, under this subparagraph, the provisions of subsections (5), (6), (7), and (8) of KRS 134.125 shall apply regarding the rights and interests of the person making the payment.

(b) Any other person may pay the total amount due on a certificate of delinquency that is owned by the taxing jurisdictions and in the possession of the county clerk to the county clerk after ninety (90) days have passed from the filing of the tax claims with the county clerk in accordance with the provisions of KRS 134.128.

(c) 1. Only the persons listed in paragraph (a) of this subsection may pay a personal property certificate of delinquency, or a certificate of delinquency on unmined coal, oil, or gas reserves, or any other mineral or energy resources that are assessed separately from the surface real property pursuant to KRS 132.820. Personal property certificates of delinquency and certificates of delinquency on unmined coal, oil, or gas reserves shall not be included in any sale conducted under KRS 134.128, and may not be purchased by any third party not specifically listed in paragraph (a) of this subsection.

2. A certificate of delinquency on property of a public service company that is centrally assessed, and that includes personal property and real property on the same certificate of delinquency, shall be treated for all purposes as a certificate of delinquency on real property.

(2) The duties of the county clerk with regard to payment of a certificate of delinquency or personal property certificate of delinquency by a person other than the person primarily liable on the certificate, are set forth in subsections (5) and (6) of KRS 134.125.

(3) (a) The delinquent taxpayer or any person having a legal or equitable estate in the property covered by a certificate of delinquency may, at any time, pay the total amount due to a third-party purchaser of a certificate of delinquency. The third-party purchaser may also accept payment from any other person at any time.

(b) When full payment for a certificate of delinquency is made to a third-party purchaser, the third-party purchaser shall execute a release of the lien in accordance with the provisions of KRS 382.365. The remedies included in KRS 382.365 shall apply if the third-party purchaser fails to release the lien as provided in KRS 382.365.

(c) Any person other than the person primarily liable on a certificate of delinquency who pays a certificate of delinquency to a third-party purchaser may, by paying a fee pursuant to KRS 64.012, have the county clerk record the payment, and the recordation shall constitute an assignment thereof, and the provisions of subsections (6) and (8) of KRS 134.125 shall apply. Failure of an assignee to record the assignment shall render the claim of such person to any real estate represented thereby inferior to the rights of other bona fide purchasers, payors, or creditors.

(d) If the third-party purchaser fails to release the lien in accordance with the provisions of KRS 382.365, or to surrender the certified copy of the certificate of delinquency to the person making full payment within thirty (30) days after payment has been tendered at the mailing address designated in the notice required by KRS 134.490 or the mailing address of record in the county clerk's office if no notice has been provided as required by KRS 134.490, the person making the payment shall have all of the remedies provided in KRS 382.365.

(e) 1. A person entitled to make payment under this section who is having difficulty locating the third-party purchaser of the certificate of delinquency to make payment may send a registered letter addressed to the third-party purchaser of record at the address reflected in the most recent notice received from the third-party purchaser

pursuant to KRS 134.490, or if no notice has been received, at the address reflected in the records of the county clerk, indicating a desire to make payment. If the letter is returned by mail unclaimed, or if the third-party purchaser fails to respond in writing within thirty (30) days, the sender may take to the county clerk as proof of mailing the certified mail receipts stamped by the post office showing that the certified letter was mailed to the correct address and the date it was mailed. If the letter was returned, the sender shall also provide the returned letter to the clerk. The sender shall attest under oath that the letter was mailed to the correct address, and if the letter was not returned, the attestation shall also provide that the third-party purchaser did not respond in writing within thirty (30) days of the date the letter was mailed. The department shall develop attestation forms for distribution to the county clerks that include a notice that any false statement made in the attestation shall be punishable by law. The form shall be a public record under KRS 519.010(2), subject to KRS 519.060(1)(a). The clerks' taking of such testimony shall be an official proceeding under KRS 523.010(3).

2. Upon the acceptance of proof and attestation by the county clerk that the person has failed in his or her attempt to contact the third-party purchaser about making payment, the person may pay the full amount due as reflected in the records maintained by the county clerk plus applicable interest, and the county clerk shall make the necessary assignment or release of the certificate of delinquency.

3. The county clerk shall deposit the money paid in an escrow account for this specific purpose in a bank having its deposits insured with the Federal Deposit Insurance Corporation. The name of the bank in which the money is deposited shall be noted on the certificate of delinquency. The county clerk may maintain one (1) escrow account for all deposits made pursuant to this subparagraph and shall maintain a record reflecting the amount due each owner of a certificate of delinquency.

4. The county clerk may deduct the sum of twenty dollars (\$20) as a fee for such service.

5. The county clerk shall mail a copy of the certificate of delinquency by regular mail to the third-party purchaser of record at the address on the certificate of delinquency.

6. If any county clerk fails to pay to the person entitled thereto, upon written demand clearly identified as a demand for payment, the money received in payment of a certificate of delinquency, the county clerk and the county clerk's sureties shall be liable for the amount of the payment and twenty percent (20%) interest thereon annually from the fifteenth day after the time the county clerk received the written demand until paid.

(4) Copies of the records provided for in this section and KRS 134.125, when certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.128 Process for sale of delinquency by clerks to persons not listed in KRS 134.127(1)(a).

(1) The sale of certificates of delinquency by county clerks to persons other than those listed in paragraph (a) of subsection (1) of KRS 134.127 shall be conducted in accordance with the provisions of this section.

(2) The department shall promulgate administrative regulations to establish a process for the purchase and sale of certificates of delinquency to third parties. The process

developed by the department shall:

(a) Establish an annual statewide schedule for the sale of certificates of delinquency in each county. The schedule shall be published on the department's web site at least ten (10) days prior to the first sale. The sale in each county shall be administered by the county clerk and shall be scheduled at least ninety (90) days but not more than one hundred thirty-five (135) days after the unpaid tax claims are filed by the sheriff with the county clerk. The department may stagger the schedule so that sales are conducted on different dates and times in different counties;

(b) Except as provided in paragraph (a) of subsection (1) of KRS 134.127, prohibit the payment of any newly filed certificates of delinquency by a third-party prior to the scheduled annual sale of certificates of delinquency for that year for that county;

(c) Prohibit the payment of any certificates of delinquency known to be involved in litigation or for which a payment plan has been agreed to by the taxpayer and the county attorney or the department, and on which the payment agreement is in good standing;

(d) Establish a process to be used by county clerks in determining the order in which interested third-party purchasers may select and pay available certificates of delinquency. The process shall, at a minimum:

1. Be uniform in all counties to the extent practicable;

2. Establish a process, if there is more than one (1) purchaser registered to purchase certificates of delinquency at the sale, that allows all interested purchasers an opportunity to purchase certificates of delinquency on an equitable basis. The sale shall not be structured in such a manner to allow one (1) third party to purchase all of the certificates of delinquency if there are other properly registered third parties that are also interested in purchasing certificates of delinquency;

3. Establish fairness for all participants by prohibiting the participation of multiple related entities, or multiple individuals representing related interests as separate entities in the selection process. The department shall define "related entities" and "related interests" as part of the regulatory process; and

4. Allow any person holding a certificate of delinquency from a prior year to pay a certificate of delinquency on the same property for the current year. If more than one (1) third party holds an outstanding certificate of delinquency on a parcel of property, the person holding a certificate of delinquency from the most recent tax year shall be given preference.

(e) Require all potential participants in the sale to register at least one (1) week in advance with the county clerk;

(f) Require a review of the list of registered participants, either by the county clerk or the department, prior to the sale to ensure that:

1. All registered participants seeking to pay multiple certificates of delinquency are properly registered with the department as required by KRS 134.129; and

2. No registered participants or related entities or related interests prohibited from separate participation in the sale pursuant to the provisions of paragraph (d)2. of this subsection and the administrative regulations promulgated thereunder;

(g) Establish advance deposit requirements for registered participants based upon the maximum amount the registered participant may pay for desired certificates of delinquency;

(h) Establish a registration fee to be paid to the clerk upon registration for a sale. The registration fee paid to each county shall not exceed two hundred fifty dollars (\$250) and may be tiered;

- (i) Establish payment requirements, which may include nullification of the payment and forfeiture of the advance deposit if a third-party purchaser fails to produce full payment within the specified time; and
- (j) Establish payment methods.
- (3) Any person who, in any calendar year:
 - (a) Pays or plans to pay five (5) or more certificates of delinquency statewide;
 - (b) Pays or plans to pay three (3) or more certificates of delinquency in any county; or
 - (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the payment of certificates of delinquency on a statewide basis in any calendar year;
- shall register with the department annually as provided in KRS 134.129.
- (4) The department shall be responsible for monitoring the sale of certificates of delinquency.
- (5) (a) At least thirty (30) but not more than forty-five (45) days before the scheduled sale date, the county clerk shall cause a notice to be published in accordance with the provisions of KRS Chapter 424. The notice shall list by property owner, property address, and if available, parcel number or lot number, all certificates of delinquency available for sale. The notice shall provide the date, time, and location of the sale.
- (b) As compensation for advertising the sale, the county clerk shall receive five dollars (\$5) for each certificate of delinquency advertised. The fee shall be added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.
- (c) The cost of placing the advertisement shall be paid by the county. The cost shall be added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency. The department shall establish a formula that may be used by counties in allocating the advertising costs among the delinquent tax claims. The formula shall take into account that a percentage of delinquent tax claims remains unpaid.
- (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment plan with the department or county attorney, not known to be in litigation, and not related to unmined coal, oil, and gas reserves may be paid to the county clerk at any time by any person after the sale, provided that any person required by the provisions of KRS 134.129 to register with the department shall hold a current certificate of registration at the time of purchase.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.129 Registration for sale of certificates of delinquency with Department of Revenue.

- (1) Any person who, in any calendar year:
 - (a) Pays or plans to pay directly, indirectly, or through another or others, five (5) or more certificates of delinquency statewide;
 - (b) Pays or plans to pay directly, indirectly, or through another or others, three (3) or more certificates of delinquency in any county; or
 - (c) Invests or plans to invest directly, indirectly, or through another or others, more than ten thousand dollars (\$10,000) in the payment of certificates of delinquency on a statewide basis in any calendar year;
- shall register with the department annually.
- (2) The person shall hold a certificate of registration from the department prior to the

payment of any certificate of delinquency that results in the person owning more than five (5) certificates of delinquency statewide, more than three (3) certificates of delinquency in any county, or investing more than ten thousand dollars (\$10,000) in the payment of certificates of delinquency statewide in a calendar year.

(3) The department shall promulgate administrative regulations to establish registration requirements and an application process, which may include the imposition of an administrative fee to offset the cost of processing and reviewing the application.

(4) As part of the application process, the department may require that the applicant and any of its directors, officers, members, and managers:

(a) Are current and in good standing on all taxes owed to the Commonwealth;

(b) Are in good standing with regard to operations under a previously issued certificate of registration;

(c) Have not previously operated without obtaining a certificate of registration under this section under circumstances where he or she should have registered; and

(d) Have a satisfactory record with the Office of Consumer Protection within the Office of the Attorney General. What constitutes a satisfactory record shall be determined by the department through the promulgation of an administrative regulation.

Any applicant failing to meet one (1) or more of these requirements may be denied a certificate of registration.

(5) (a) The department may decline to issue a certificate of registration to any applicant who does not meet the requirements established by this chapter and the administrative regulations promulgated thereunder.

(b) The department may suspend or revoke a certificate of registration if the person holding the certificate violates the provisions of this chapter or the administrative regulations promulgated thereunder.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.504 Department to collect or contract with county attorney for collection of certificates of delinquency.

(1) The department shall be responsible for the collection of certificates of delinquency and personal property certificates of delinquency. The provisions of this section relating to certificates of delinquency shall also apply to personal property certificates of delinquency unless otherwise specifically noted. The department shall offer the collection duties related to certificates of delinquency and personal property certificates of delinquency to the county attorney in each county, unless the department determines that a county attorney has previously failed to perform collection duties in a reasonable and acceptable manner.

(2) Any county attorney desiring to perform the collection duties shall enter into a contract with the department on an annual basis.

(3) The terms of the contract shall specify the duties to be undertaken by the county attorney, which shall include, at a minimum, the duties set forth in subsection (4) of this section. The terms of the contract shall also provide that, if the county attorney fails to perform the duties required by the contract during the contract period, the department may assume all collection responsibilities.

(4) The following duties shall be performed by the department or the county attorney, as the case may be, with regard to each certificate of delinquency:

(a) Within thirty (30) days after the establishment of a certificate of delinquency, the

county attorney or the department shall mail a notice by regular mail to the owner of record on the assessment date at the address on the records of the property valuation administrator, or to the in-care-of address if an in-care-of address is provided as required by subsection (5) of this section. The notice shall:

1. Include the name, address, and telephone number of a contact person in the county attorney's office or the department, as the case may be;

2. Advise that:

a. The certificate of delinquency is a lien of record against the property on which the taxes are due;

b. The amounts due are a personal obligation of the taxpayer on the assessment date; and

c. The certificate bears interest at the rate of twelve percent (12%) and, if not paid, will be subject to collection by the county attorney or the department as provided by law;

3. Include the total amount due as of the date of the notice;

4. Advise that anytime after ninety (90) days from the creation of the certificate of delinquency, the certificate of delinquency may be paid by a third-party purchaser and, that if so paid, the certificate of delinquency will be subject to collection by the third-party purchaser as provided by law. The notice shall also advise that a third-party purchaser may impose substantial additional administrative costs and fees associated with collection in addition to the amount due on the certificate of delinquency. This provision shall not be included in notices sent for personal property certificates of delinquency, or certificates of delinquency on unmined coal, oil or gas reserves, or any other mineral or energy resources that are assessed separately from the surface real property pursuant to KRS 132.820; and

5. Advise that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets the requirements established by the county attorney or the department, and if terms are agreed to prior to the date of the sale.

(b) The county attorney or the department shall file in the office of the county clerk a list of the names and addresses to which the thirty (30) day notice was mailed along with a certificate attesting that the notices were mailed in accordance with the requirements of this section.

(c) 1. All thirty (30) day notices returned as undeliverable shall be submitted by the county attorney or department to the property valuation administrator, and a list of the returned notices shall be filed with the county clerk, who shall record the list in the order book of the county.

2. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner, current mailing address, and in-care-of address, if, any, as provided in KRS 382.135.

3. The property valuation administrator shall return the notices with the corrected information to the county attorney or the department within twenty (20) days of receipt.

4. Upon receipt of the new information from the property valuation administrator, the county attorney or the department shall resend the notice required by paragraph (a) of this subsection using the updated information.

(d) 1. Within sixty (60) days of the establishment of a certificate of delinquency, the county attorney or department shall send a second notice, by regular mail, to owners of record whose tax bills remain delinquent, or to the in-care-of addresses or corrected address, if information regarding a new property owner has been received by the county attorney or the department under the provisions of paragraph (c) of this subsection. The notice shall include, at a minimum, the following information:

- a. The name, address, and telephone number of a contact person in the county attorney's office or the department, as the case may be;
- b. A statement that a sale of tax claims will be held by the county clerk on the date established by the department for the sale. The text of the statement shall include the actual sale date, as well as a statement noting that the certificate of delinquency may be paid by a third-party purchaser at the sale, and if the certificate of delinquency is paid by a third-party purchaser, it will be subject to collection by the third-party purchaser as provided by law, and that significant additional collection fees will be imposed by the third-party purchaser. This statement shall not be included in notices sent to owners of property subject to a personal property certificate of delinquency, or certificates of delinquency on unmined coal, oil or gas reserves, or any other mineral or energy resources that are assessed separately from the surface real property pursuant to KRS 132.820; and
- c. A statement that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets the requirements established by the county attorney or the department and if terms are agreed to prior to the date of the sale.
2. The county attorney or the department shall file in the office of the county clerk a list of the names and addresses to which the sixty (60) day notice was mailed, along with a certificate attesting that the notices were mailed in accordance with the requirements of this section.
3. If the notice required by paragraph (c) of this subsection is returned as undeliverable, and the property valuation administrator is not able to provide a corrected or updated address, the county attorney or the department shall address the sixty (60) day notice to "Occupant" and shall mail the notice to the address of the property to which the certificate of delinquency applies.
- (e) The county attorney or the department shall deliver to the property valuation administrator, at the same time the notice required by paragraph (d) of this subsection is sent, a list of the owners whose tax bills remain delinquent. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.
- (f) Anytime after the expiration of the one (1) year tolling period established by KRS 134.546, the county attorney or department may institute an action to collect the amount due on a certificate of delinquency owned by the taxing jurisdictions and in the possession of the county clerk. At least forty-five (45) days before instituting a legal action, the county attorney or department shall send, by regular mail, a notice of intent to initiate legal action to enforce the lien. The notice shall be sent to the owner of record of the property or to the in-care-of address or corrected address if either has been provided pursuant to this section.
- (5) If property subject to a certificate of delinquency has been transferred in any year after the assessment date, the property valuation administrator shall determine the in-care-of address supplied in the deed pursuant to KRS 382.135 and shall provide that information to the county attorney or the department.
- (6) (a) Failure of the county attorney or the department to mail the notices required in subsection (4) of this section shall not affect the validity of the claim of the state, county, school district, and taxing district. However, the county attorney or the department shall not receive any compensation, commission, or payment related to any certificate of delinquency for which the notices required by the provisions of subsection (4) of this section are not sent.
- (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the

certificate of delinquency, to offset the cost of mailing, and, upon collection, the county attorney or the department shall be paid such amounts as reimbursement for mailing costs.

(7) (a) As compensation for the collection duties performed pursuant to a contract with the department, a county attorney shall be paid twenty percent (20%) of the amount due each taxing unit during the contract period, whether the amount is paid voluntarily, through sale, or under court order, and whether the amount is paid to the county clerk or the county attorney. The fee for the county attorney shall be added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.

(b) If payment in full is voluntarily made by the taxpayer to the county attorney or county clerk within five (5) days of the filing of the tax claim with the county clerk, the county attorney fee shall be waived.

(c) If a county attorney files a court action or files a cross-claim, the county attorney shall be paid an additional fee of thirteen percent (13%) of the amount of the certificate of delinquency and shall be reimbursed for costs incident to the court action. The additional fee and costs incident to the litigation shall be added to the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.

(d) If more than one (1) county attorney renders necessary services to collect on a certificate of delinquency, the county attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee.

(8) (a) The county attorney shall establish a system to accept installment payments from delinquent taxpayers. The county attorney may, during the contract period, enter into an agreement with a delinquent taxpayer to accept installment payments on the certificates of delinquency. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

(b) The county attorney may, upon written request of the taxpayer for good cause and with agreement of the affected taxing jurisdiction or fee recipient, waive or reduce fees and penalties that are part of a certificate of delinquency during settlement or negotiation with a taxpayer in accordance with guidance provided by the department.

(9) Any action by the county attorney authorized by this chapter shall be filed on relation of the commissioner. A copy of any judgment obtained by the county attorney shall be sent to the department.

(10) The county attorney shall notify the county clerk and the department of the filing of a suit at the time the suit is filed and of payment agreements at the time such agreements are entered into. The county clerk shall note on the certificate of delinquency the filing of the lawsuit or the existence of the payment agreement, and these certificates of delinquency shall not be available for purchase or payment by a third-party purchaser. The county attorney shall notify the county clerk of the failure of any payment agreement and, upon notification to the clerk, the certificate of delinquency shall be available for purchase.

(11) The department may make its delinquent tax collection databases and other technical resources, including but not limited to tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the department to protect taxpayer confidentiality, to ensure database integrity, or to address the concerns of the department.

(12) (a) If a county attorney chooses not to contract for collection duties, or if a county attorney fails to perform the duties required by the contract, the department shall

assume responsibility for all uncollected certificates of delinquency and personal property certificates of delinquency, including, at the option of the department, those with pending court action or for which the county attorney has entered into an installment payment agreement.

(b) If the department assumes or retains responsibility for the collection of certificates of delinquency and personal property certificates of delinquency, the twenty percent (20%) fee that would have been paid to the county attorney under subsection (8) of this section, and any other fees or costs established by this section for the county attorney shall be paid to the department for deposit in the delinquent tax fund provided for under Section 26 of this Act.

KRS 134.545 IS AMENDED TO READ AS FOLLOWS:

KRS 134.545 Use of funds by county attorney (catchline change)

Moneys paid to the county attorney under an agreement entered into pursuant to KRS 134.504~~KRS 132.350, 134.340, 134.400, 134.500, 134.540 and 135.040~~ shall be used only for payment of county attorney office operating expenses.\

KRS 134.452 is amended to read as follows:

~~(1) —~~ Notwithstanding any other provisions of this chapter, a third-party~~private~~ purchaser of a certificate of delinquency shall be entitled to collect only the following:

~~(1)(a)~~ The amount actually paid ~~for~~~~to purchase~~ the certificate of delinquency;

~~(2)(b)~~ Interest as provided in KRS 134.125, calculated on the amount actually paid to the county clerk from~~accrued subsequent to~~ the date the certificate of delinquency was purchased until paid; and~~as provided in KRS 134.500;~~

~~(3)(c)~~ Attorneys' fees as provided in this subsection~~paragraph~~.

~~(a)1-~~ Attorneys' fees incurred for collection efforts prior to litigation as follows:

~~1.a-~~ If the amount paid for a certificate of delinquency is between five dollars (\$5) and three hundred fifty dollars (\$350), actual reasonable fees incurred up to one hundred percent (100%) of the amount of the certificate of delinquency, not to exceed three hundred fifty dollars (\$350);

~~2.b-~~ If the amount paid for a certificate of delinquency is between three hundred fifty-one dollars (\$351) and seven hundred dollars (\$700), actual reasonable fees incurred up to eighty percent (80%) of the amount of the certificate of delinquency, not to exceed five hundred sixty dollars (\$560); and

~~3.c-~~ If the amount paid for a certificate of delinquency is above seven hundred one dollars (\$701), actual reasonable fees incurred up to seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars (\$700).

~~(b)2-~~ If a third-party~~private~~ purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable prelitigation attorneys' fees for all certificates of delinquency against the same taxpayer shall not exceed one and one-half (1.5) times the maximum amount permitted in ~~subparagraph 1. of this~~ paragraph (a) of this subsection for the largest tax bill owed by the taxpayer.

~~(c)3-~~ In addition to the prelitigation attorneys' fees established by paragraphs (a) and (b) of this subsection~~subparagraphs 1. and 2. of this paragraph~~, a third-party~~private~~ purchaser may collect actual, reasonable attorneys' fees and costs that arise due to the prosecution of collection remedies or the protection of a certificate of delinquency that is involved in litigation; and

~~(4)(d)~~ Administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred dollars (\$100).

(5) A certificate of delinquency owned by a third-party purchaser shall be deemed a general intangible for the purposes of Article 9 of KRS Chapter 355.

~~[(2) — A private purchaser holding a certificate of delinquency on June 26, 2007, shall, regardless of when that certificate of delinquency was purchased, send to the property owner by January 31, 2008, at the address reflected in the records maintained by the property valuation administrator, the following information:~~

~~(a) — The legal name of the purchaser;~~

~~(b) — The purchaser's physical address;~~

~~(c) — The purchaser's mailing address for payments, if different from the physical address; and~~

~~(d) — The purchaser's telephone number.~~

~~(3) — The provisions of KRS 132.490(1)(b), relating to notice if contact information changes, shall apply to all private purchasers of certificates of delinquency regardless of when the certificate of delinquency was purchased.~~

~~(4) — Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the private purchaser shall send to the taxpayer by first class mail, with proof of mailing, a notice informing the taxpayer that the certificate of delinquency may be enforced as provided in KRS 134.490(2). The notices shall be sent to the address reflected in the records maintained by the property valuation administrator. The notice shall also include the contact information required by KRS 134.490(1)(b).~~

~~(5) — Within thirty (30) days but at least fifteen (15) days prior to initiating any of the collection remedies enumerated in KRS 134.490(2), the private purchaser shall send to the taxpayer by first class mail, with proof of mailing, a notice informing the taxpayer that enforcement actions will be taken. The notices shall be sent to the address reflected in the records maintained by the property valuation administrator. The notice shall also include the contact information required by KRS 134.490(1)(b).]~~

KRS 134.490 IS AMENDED TO READ AS FOLLOWS:

KRS 134.452 *Third-party purchaser of certificate of delinquency -- Fees -- Collection limitations -- Notice to proper owner (catchline change)*

(1) Within fifty (50) days after the ~~delivery~~^{issuance} of a certificate of delinquency *by the clerk* to a *third-party purchaser, the third-party*~~private purchaser, the private~~ purchaser shall *send to the delinquent taxpayer by first-class mail with proof of mailing, a notice informing the delinquent taxpayer that the certificate of delinquency has been purchased by the third-party purchaser. The notice shall include the information required by subsection (3) of this section.*

(2) Anytime after the expiration of the one (1) year tolling period established by KRS 134.546, the third-party purchaser may institute an action to collect the amount due on a certificate of delinquency. At least forty-five (45) days before instituting a legal action, the third-party purchaser shall send to the taxpayer by first-class mail with proof of mailing, a notice informing the taxpayer that enforcement action will be taken. This notice shall also include the information required by subsection (3) of this section.

(3) (a) 1. Third-party purchasers or their designees shall obtain from the office of the property valuation administrator of the county in which the real property is located the most recent address for the property owner.

2. To obtain information from the office of the property valuation administrator, the third-party purchaser shall submit a list of addresses, map identification numbers, or parcel numbers for which updated information is requested to the property valuation administrator, who shall:

a. Update his or her records with regard to the properties for which information is requested; and

b. Provide the updated information to the third-party purchaser within ten (10) days.

3. For this service, the property valuation administrator may charge a fee not to exceed two dollars (\$2) for each address provided.

4. Except as provided in subparagraph 5. of this paragraph, the third-party purchaser shall send the notices required by subsections (1) and (2) of this section to the address provided by the property valuation administrator.

5. If, due to insufficient staffing, the property valuation administrator is unable to provide the requested information to the third-party purchaser within ten (10) days of submission, the property valuation administrator shall immediately notify the third-party purchaser, and the third-party purchaser may send the notices required by subsections (1) and (2) of this section to the address reflected in the public records of the property valuation administrator.

6. Any notices sent pursuant to subsections (1) and (2) of this section that are returned as undeliverable shall be re-sent by first class mail with proof of mailing addressed to "Occupant" at the address of the property that is the subject of the certificate of delinquency. These notices shall be sent within ten (10) days of receipt of the returned notice.

7. The third-party purchaser shall maintain complete and accurate records of all notices sent pursuant to this section.

(b) The notices required by this section shall include the following information: give the same notice as required of a county attorney in KRS 134.500(3).

(a) The notice shall advise the owner that:

1. A statement that the certificate of delinquency is a lien of record against the [all] property for which delinquent taxes are owed [of the owner];

2. A statement that the certificate bears interest at the rate provided in KRS 134.125; [KRS 134.500; and]

3. A statement that if the certificate is not paid, it will be subject to collection as provided by law. The notice required by subsection (2) of this section shall also include a statement of the intent to institute legal action to collect the amount due;

4. A complete listing of the amount due, as of the date of the notice, broken down as follows:

a. The purchase price of the certificate of delinquency;

b. Interest accrued subsequent to the purchase of the certificate of delinquency; and

c. Fees imposed by the third-party purchaser; and

5. Information, in a format and with content as determined by the department, detailing the provisions of the law relating to third-party purchaser fees and charges.

(c)(b) In addition, the notice shall provide the following information to the taxpayer:

1. The legal name of the third-party purchaser;

2. The third-party purchaser's physical address;

3. The third-party purchaser's mailing address for payments, if different from the physical address; and

4. The third-party purchaser's telephone number.

If the information required by this paragraph changes, the third-party purchaser shall, within thirty (30) days of the change becoming effective, send a notice to ~~each~~ taxpayer by first-class mail with proof of mailing~~registered mail~~ with the corrected information. The third-party purchaser shall also update contact information included in the records of the county clerk within ten (10) days of the change becoming effective. Failure to send the original notice or any correction notices shall result in the suspension of the accrual of all interest and any fees incurred by the third-party purchaser after that date until proper notice is given as required by this subsection.

(4) If a person entitled to pay a certificate of delinquency to a third-party purchaser makes payment on the certificate of delinquency to the county clerk under the conditions described in subsection (3)(d) of KRS 134.127, the payment shall constitute payment in full, and no other amounts may be collected by the third-party purchaser from the person.

(5) A third-party purchaser may offer an installment payment plan to a taxpayer under the terms and conditions established by the department in an administrative regulation.

~~(2) If a private person is the owner of a certificate of delinquency, the private purchaser may, after the expiration of the one (1) year period provided in KRS 134.470:~~

~~(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate, and any other certificates subsequently issued to the same owner against the same delinquent, and shall have all the remedies available for the enforcement of a debt; or~~

~~(b) Institute an action to enforce the lien provided in subsection (1) of KRS 134.420, represented by the certificate that is more than one (1) year of age, and those certificates subsequently held by the same owner against the same delinquent or property; or~~

~~(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and the joinder of actions shall not be defeated if the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his interest in the property, and as between them the delinquent taxpayer shall be responsible.~~

~~(3) If the state, county, or a taxing district is the owner of a certificate of delinquency, it shall have, after the expiration of the one (1) year period provided in KRS 134.470, in addition to the remedies mentioned in subsection (2) of this section, the right to distrain and sell any property owned by the delinquent, including that on which the lien provided in subsection (1) of KRS 134.420 has attached. Any property sold under distraint proceedings shall be sold in the same manner as provided in KRS 134.430 and 134.440, except that the exercise of the power shall be vested in the county attorney.~~

~~(4) If property is sold pursuant to a judgment of foreclosure, it shall be appraised pursuant to the provisions of KRS 426.520 and there shall be a right of redemption as provided in KRS 426.530. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and they shall have a pro rata interest in accordance with the amount of their respective certificates.]~~

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.546 Cause of action on certificates of delinquency -- Sale and deed on foreclosure -- No redemption -- Additional rights if owner is a taxing unit.

(1) Any action to collect any amount due on a certificate of delinquency or personal

property certificate of delinquency may be brought at any time after the passage of one (1) year from the date the taxes became delinquent, and shall be brought within eleven (11) years of the date when the taxes became delinquent.

(2) A third-party purchaser may:

(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate of delinquency and any other certificates of delinquency subsequently issued to the same third-party purchaser against the same delinquent, and shall have all the remedies available for the enforcement of a debt;

(b) Institute an action to enforce the lien provided in KRS 134.420, represented by the certificate of delinquency and those certificates subsequently held by the same third-party purchaser against the same delinquent or property; or

(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and the joinder of actions shall not be defeated if the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his or her interest in the property, and as between them the delinquent taxpayer shall be responsible.

(3) If the state, county, or a taxing district is the owner of a certificate of delinquency or personal property certificate of delinquency, it shall have, in addition to the remedies provided in subsection (1) of this section, the right to distrain and sell any property owned by the delinquent taxpayer, including that on which the lien provided in KRS 134.420 has attached. Any property sold under distraint proceedings shall be sold in the same manner as provided in KRS 131.500, except that the exercise of the power shall be vested in the county attorney.

(4) Any property while owned by a delinquent taxpayer shall be subject to foreclosure or execution in satisfaction of a judgment pursuant to an action in rem or an action in personam, or both, to enforce the obligation.

(5) If property is sold pursuant to a judgment of foreclosure, it shall be appraised pursuant to the provisions of KRS 426.520, and there shall be a right of redemption as provided in KRS 426.530. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and that person or persons shall have a pro rata interest in accordance with the amount of their respective certificates.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.421 Apportionment of taxes on real property when one owner does not pay taxes due.

(1) When real property is owned by two (2) or more persons and had been assessed as one (1) tract, and one (1) owner does not pay his or her share of the taxes due, the taxes owed by the owner failing to pay may be paid by any other owner. Any owner who pays the amount due by another owner under this section shall have a lien on the delinquent taxpayer's portion of the real property for the amount paid and may file suit to recover the amount paid.

(2) (a) Whenever one (1) tax claim or certificate of delinquency exists on land which is divided both as to ownership and area into two (2) or more tracts, any person or persons owning any of the tracts may, upon ten (10) days' notice given to the owners of the other tracts, make application to the county attorney and to the property valuation administrator

of the county for an apportionment of the assessment.

(b) The property valuation administrator of the county may make an apportionment of the amount of the encumbrance among the owners of each tract according to the value of their respective interests as shown by the proof introduced by them.

(c) Any owner of a tract for which the tax claim or certificate of delinquency was apportioned may have the encumbrance on his or her property released by paying to the sheriff his or her pro rata share of the tax claim or to the county clerk his or her pro rata share of the certificate of delinquency as ascertained by the decision of apportionment.

(d) The determination of the property valuation administrator of the county shall be final unless an appeal therefrom to the Circuit Court is prosecuted within sixty (60) days from the issuance of the decision.

KRS 134.420 IS AMENDED TO READ AS FOLLOWS:

(1) ~~[(a)]~~ The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for eleven (11)~~ten (10)~~ years following the date when the taxes become delinquent~~, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440].~~

(2)(b) This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes.

(3)(c) The lien shall include all interest, penalties, fees, commissions, charges, costs, attorney fees, and other expenses as provided by this chapter that have been incurred by reason of delinquency in payment of the tax ~~claim~~~~bill~~ or certificate of delinquency, personal property certificate of delinquency, or in the process of collecting any of them~~either~~, and shall have priority over any other obligation or liability for which the property is liable.

(4)(d) The lien of any city, county, or other taxing district shall be of equal rank with that of the state.

(5)(e) When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(6)(f) Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

~~[(2) — If any person liable to pay any tax administered by the Department of Revenue, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.~~

~~(3) — The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the commissioner of the Department of Revenue, or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.~~

~~(4) — The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of~~

the tax lien has been filed by the commissioner of the Department of Revenue or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the Department of Revenue shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) — Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) — Is in property which:

1. — At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. — Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) — Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.]

KRS 134.140 IS AMENDED TO READ AS FOLLOWS:

(1)[— The sheriff, by virtue of his office, shall be collector of all state, county, consolidated local government, and district taxes, unless the payment thereof is, by law, especially directed to be made to some other officer. Where provision is not otherwise made for the collection of taxes, the assessment or proportion thereof allocable to a local taxing district shall be certified to the clerk of the court of the county or the clerk of the consolidated local government which constitutes or in which such taxing district is located, for collection as provided by law.

(2) — The sheriff shall not receive or receipt for any taxes until the tax bills have been delivered to him by the county clerk, as provided in KRS 133.220 and 133.230.

(3) — (a) The sheriff may, except in urban county governments, may, and at the direction of the fiscal court or a consolidated local government shall,] invest any tax revenues held in his or her possession from the time of collection until the time of distribution to the proper taxing authorities] pursuant to KRS 134.300, 134.320, and 160.510]. Investments by the sheriff shall be restricted to those permitted by KRS 66.480.

(2)(b) As part of the [At the time of his] monthly distribution of taxes to the district board of education as required by KRS 134.191, the sheriff shall pay to the board of education that part of the [his] investment earnings for the month which are [is] attributable to the investment of school taxes, less an amount not to exceed four percent (4%) of the earned monthly investment income to reimburse the sheriff for the costs of administering the investment but this subsection shall not be construed to prohibit the sheriff from obtaining his expenses not to exceed the rate of four percent (4%) of the earned monthly investment income for the administration of this investment fund].

(3)(c) In [these] counties where the sheriff pays [his] fees and commissions collected to the county and the salaries and expenses of the sheriff's [his] office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education in compliance with subsection (2) of this section [paragraph (b) of this subsection], at the time of his or her monthly distribution of taxes to the county required by KRS 134.191.

(4)(d) In those counties where the office of sheriff is funded in whole or in part by fees and

commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education in compliance with subsection (2) of this section~~paragraph (b) of this subsection~~, to pay lawful expenses of his or her office~~, and the remainder shall be paid to the fiscal court or a consolidated local government at the time of the sheriff's annual settlement for county, consolidated local government, and district taxes and excess fees~~.

KRS 134.160 IS AMENDED TO READ AS FOLLOWS:

(1) The governing body of a county~~sheriff shall keep his office at the county seat, except in counties where he has an office already established in a city other than the county seat, in which case he shall continue his office at the place now established. The fiscal court~~ shall provide the sheriff~~him~~ with ~~a room or rooms for an~~ office space that includes a secure place~~, with a vault or place of safety in which~~ to keep the records of his or her office.~~[He shall keep his office open for the collection of taxes at all reasonable times, except on Sundays and legal holidays.]~~

(2) (a) The sheriff shall keep an accurate account of all moneys received and all disbursements made~~by him~~, showing:

1. The amount;~~;~~

2. The date and time of payment or disbursement;

3. The name of the person making the payment or to whom the disbursement was made; and

4. The account the payment was credited to or the disbursement deducted from~~when and the person from whom received, and on what account. He shall also keep an accurate record of all disbursements made by him, showing the amount, to whom paid, the time of payment, and on what account~~.

(b) The sheriff shall maintain records that account for~~He shall so arrange and keep his books that the amounts received and paid on account of~~ separate and distinct appropriations~~shall be exhibited~~ in separate and distinct accounts.

(c) The sheriff~~He~~ shall balance all accounts~~his books~~ on a monthly basis unless otherwise provided by law~~the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made~~. The cost of maintaining records and accounts in whatever form~~books~~ shall be paid for as other county records.

(3) All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. The sheriff may provide a receipt specifying the amount and to what account the payment was credited to the person making the payment.

(4) The sheriff shall obtain a receipt for all disbursements made by the sheriff.

(5) Other than as permitted for investment and expenditures by this chapter, the sheriff shall not apply or use any money received by him or her for any purpose other than that for which the money was paid or collected.

(6) The sheriff shall keep all~~his~~ books and accounts in the manner and form required by the department~~of Revenue~~.

~~(7)~~(4) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the department~~of Revenue~~, the governing body of the county~~fiscal court~~ or any member thereof, the governing body of any other taxing district for which the sheriff collects taxes or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.191 Monthly reporting and payment of taxes collected by sheriff.

(1) The sheriff shall provide monthly reports by the tenth day of each month to the chief executive of the county, the department, and any other district for which the sheriff collects taxes. The governing body of the county may require the sheriff to report and pay on a more frequent basis if necessary for bonding requirements; however, the sheriff shall not be required to report and pay more frequently than weekly.

(2) The report shall be broken down by governmental entity and shall include the following information for the preceding month or reporting period, if the reporting period is other than monthly:

(a) The total amount of taxes collected;

(b) The total amount of any fines, forfeitures, or other moneys collected; and

(c) The disposition of such revenue or money collected.

(3) At the time of making the report, the sheriff shall pay to the county treasurer or other officer designated by the governing body of a county, to the department, and to any other district for which the sheriff collects taxes, all funds belonging to the county, the state, or the district that were collected during the period covered by the report.

(4) Any sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest at the tax interest rate provided in KRS 131.183 on such amounts. The governing body of a county, the department, or the other district for which the sheriff collects taxes, in its settlement with the sheriff, shall charge him or her with such penalties and interest.

(5) The chief executive of a county, or the commissioner of the department may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) of this section with that entity when good cause exists. The extension shall be in writing and shall be recorded in the office of the county clerk. The extension when granted shall suspend the penalty and interest for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

KRS 134.192 Annual settlement of tax collections by sheriff.

(1) Each sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year. If any sheriff resigns, dies, or otherwise vacates his or her office, the books and records shall be made available to the department, the county, and any other district for which the sheriff collects taxes within thirty (30) days from the date that the office is vacated. The annual settlement of the sheriff shall be audited in accordance with KRS 43.070 and 64.810.

(2) (a) The department shall conduct the settlement relating to taxes collected for the state.

(b) The sheriff shall settle his or her accounts with the county, the school district, and any other taxing district for which he or she collects taxes. On request of the governing body of the county or any other district for which the sheriff collects taxes, the department may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the department may initiate the local settlement on behalf of the county, the school district, and the taxing districts. Upon completion of the local settlement, the department

may receive reasonable reimbursement for expenses incurred.

(3) In making his or her settlement with the local governments and the department, the sheriff shall be allowed credit for the uncollected tax claims properly filed with the county clerk's office as required by KRS 134.122.

(4) All tax bills on omitted property that were not turned over to the sheriff in time to be collected shall be carried over as a charge against the sheriff as part of the annual settlement.

(5) The report of the state and local settlement shall be filed in the county clerk's office and approved by the governing body of the county no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected for the county, the school district, and all taxing districts, and an itemized statement of the money disbursed to or on behalf of the county, the school district, and all taxing districts.

(6) The settlement shall be published pursuant to KRS Chapter 424.

(7) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his or her hands attributable to amounts charged against the sheriff relating to the collection of property taxes, and shall take receipts as provided in KRS 134.160. The sheriff shall pay any additional amounts charged against him or her as a result of the settlements.

(8) (a) If the sheriff fails to remit amounts charged against him or her to the appropriate taxing district, the department may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts.

(b) The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the department.

(9) No tax bills or tax books shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until the settlement is submitted and approved by the department and the governing body of a county, and until the sheriff's bond is in place, should a bond be required by the fiscal court.

(10) If the tax records of a county are destroyed by fire, flood, tornado, or other act of nature, or are lost, stolen, or mutilated so as to require a reassessment of the property in the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he or she receives the recertified tax bills to make settlement pursuant to this section.

(11) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his or her settlement:

(a) A complete statement of all funds received by his or her office for official services, showing separately the total income received by his or her office for services rendered, exclusive of his or her commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his or her office, including his or her salary, compensation of deputies and assistants, and reasonable expenses.

(12) At the time he or she files the statements required by subsection (11) of this section, the sheriff shall pay to the governing body of the county any fees, commissions, and other income of his or her office, including income from investments, which exceed the sum of his or her maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810. The provisions of this subsection shall not be construed to amend

KRS 64.820 or 64.830.

(13) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

KRS 134.215 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 134.230 IS AMENDED TO READ AS FOLLOWS:

(1) (a) The sheriff shall execute a bond annually to the Commonwealth with one (1) or more sufficient sureties in the minimum sum of ten thousand dollars (\$10,000), conditioned on the faithful performance of his or her duties and to pay over to the proper person and at the proper time all money collected. The bond shall be executed prior to the sheriff collecting taxes for the year in which the bond is executed. The bond shall be approved by order of the governing body of the county, and shall be filed by the governing body of the county with the county clerk and with the department.

(b) The governing body of the county~~(fiscal court)~~ may require the sheriff to enter into an additional bond, with good surety to be approved by the governing body of the~~(fiscal court)~~, when the fiscal court deems it necessary in the interest of the state or ~~county~~.

(2) (a) Subject to the provisions of paragraph (b) of this subsection, the sureties on all bonds executed by the sheriff pursuant to this section shall be jointly and severally liable for any default of the sheriff during the calendar year in which the bond was executed, whether the liability accrues before or after the execution of the bond.

(b) Neither the sheriff nor a surety shall be liable for any act or default of the sheriff relating to the sheriff's revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the department, the chief executive of the county, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

(3) (a) Any sheriff who fails to execute a bond as required by this section shall forfeit his or her office. The vacancy shall be filled as provided in KRS 63.220.

(b) If the chief executive of the county does not appoint a sheriff as provided in KRS 63.220 within thirty (30) days, the department may appoint a tax collector to collect the moneys due the state. An appointed collector shall execute a bond within ten (10) days of being appointed, in the same manner and under the same conditions as provided in this section for a sheriff. A sheriff who forfeits his or her office under this subsection or who resigns his or her office shall not be appointed as collector under this section.

KRS 134.380 IS AMENDED TO READ AS FOLLOWS:

(1) The ~~department~~~~(commissioner)~~ may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties~~[- consolidated local government]~~, school districts, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the department assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the department by the Kentucky Revised Statutes, including but not limited to Chapters 131, 132, 133,

134, and 135.

(2) ~~Field agents, accountants, and attorneys of the department shall prosecute all actions and proceedings under the direction of the commissioner. Field agents, accountants, attorneys, and all other employees of the department engaged in the prosecution of the actions shall not be hired by personal service contract. The commissioner shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.~~

(3) Nothing contained in this chapter shall prevent the department ~~commissioner of revenue~~ from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, or 136.120 to 136.180.

~~(3)(4)~~ (4) The department may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. ~~The department shall require an index to be kept of all certificates of delinquency.~~

KRS 134.400 IS AMENDED TO READ AS FOLLOWS:

(1) The twenty percent (20%) penalty established by KRS 132.290, the administrative fee established by KRS 134.510, the fees payable to the department for collecting delinquent taxes pursuant KRS 134.504, and any other fees or penalties payable to the department for collecting delinquent taxes ~~All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the Department of Revenue, sheriffs, and other state, county, or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property,~~ shall be paid into the State Treasury and credited as provided ~~for the twenty percent (20%) penalty~~ in subsection (2) of this section.

(2) ~~The twenty percent (20%) penalty collected on taxes due the state, county, school, or other taxing district shall be paid into the State Treasury.~~ One-fourth (1/4) of the moneys ~~thus~~ received pursuant to the provisions of subsection (1) of this section shall be credited to the general ~~expenditure~~ fund. The remaining three-fourths (3/4) shall ~~also~~ be credited to ~~the general expenditure fund unless the General Assembly, in its biennial branch budget bill, provides that it be credited to~~ a fund to be designated and known as the delinquent tax fund, to ~~in which case it shall be so credited and so much thereof as may be necessary shall~~ be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. ~~All~~ Salaries, fees, and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, may ~~except the fees of county attorneys, shall be paid~~ payable out of the delinquent tax fund upon certifications or requisitions of the commissioner of revenue.

KRS 134.495 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 134.510 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 134.520 IS AMENDED TO READ AS FOLLOWS:

(1) If a certificate of delinquency or personal property certificate of delinquency held by an individual is declared void by a court of competent jurisdiction because of the irregularity of taxing

officers, the amount for which the certificate was issued shall be refunded by the state, county and taxing districts on a pro rata basis. If a school district or county is unable to make the refund currently when requested, it shall be given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. ~~The rate of interest refunded shall be at the tax interest rate as defined in KRS 131.010(6), rather than twelve percent (12%) per annum.~~ The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.

(2) (a) If a certificate of delinquency held by a third-party purchaser who paid the certificate of delinquency to the county clerk is unenforceable because it is a duplicate certificate of delinquency, because the tax liability represented by the certificate of delinquency was satisfied prior to the purchase of the certificate of delinquency, or because all or a portion of the certificate of delinquency is exonerated, the third-party purchaser may apply to the county clerk for a refund.

(b) The application for refund shall include written proof that one (1) of the situations described in paragraph (a) of this subsection exists with regard to the certificate of delinquency for which a refund is sought.

(c) 1. Upon acceptance and approval of the application for refund, the county clerk shall approve a refund of the amount paid to the county clerk by the third-party purchaser in satisfaction of the certificate of delinquency.

2. Amounts refunded to the third-party purchaser shall be deducted from amounts in the hands of the county clerk due to the state, county, taxing districts, sheriff, county attorney, and the county clerk on a pro rata basis, if the county clerk has sufficient funds in his or her hands to make the refund.

3. If the county clerk does not have sufficient funds to make the refund at the time the refund is approved, the county clerk may either:

a. Retain the approved refund claim in his or her office and make the refund payment as soon as he or she has sufficient funds in his or her hands to make the refund payment;
or

b. Provide a signed letter to the person to whom payment is due, which includes the amount due from each taxing jurisdiction or fee office, and which directs each taxing jurisdiction or fee official to pay to the person the amount due and owing from that taxing jurisdiction or fee official as reflected in the letter.

4. The county clerk shall document his or her records to reflect the action taken in response to an approved refund.

(d) Any third-party purchaser who receives a refund pursuant to this section shall release any liens on the property for which the refund was received within thirty (30) days of receiving the refund. Failure to release the lien shall subject the third-party purchaser to all of the remedies provided in KRS 382.365.

KRS 134.990 IS AMENDED TO READ AS FOLLOWS:

(1) Any sheriff who fails to make his or her annual settlement available as required by KRS 134.192, or who fails to remit any amounts which are due to the taxing districts as required by law, shall be subject to indictment in his or her county of residence, and upon conviction shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000)~~Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars (\$100) for each offense].~~

~~(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and~~

conviction in the county in which the act was done, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and be removed from office.

~~(3)~~ Any sheriff who violates subsection ~~(5) of KRS 134.160~~~~(3) of KRS 134.170~~ shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.

~~(3)~~~~(4)~~ Any sheriff who fails to maintain accurate records of ad valorem taxes collected, or who fails to collect taxes due that were collectable shall be held liable on his or her bond for the amount of the tax, penalties, interest, and costs due, plus a thirty percent (30%) penalty thereon. Action shall be brought in the Circuit Court of the county in which the tax is due, on motion of the county attorney or department on behalf of the state. All actions shall be prosecuted by the county attorney, who shall be entitled to retain the penalty recovered for services rendered if all amounts otherwise due are recovered and paid to the taxing jurisdictions entitled to receive those amounts~~[Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars (\$500) for each offense].~~

~~(4)~~~~(5)~~ Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215~~[KRS 134.215]~~ shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and be liable on his or her bond for any default.

~~(5)~~~~(6)~~ In addition to the penalty imposed by KRS 134.191, any sheriff who fails to report as required in KRS 134.197~~[KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction]~~ shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

~~(6)~~~~(7)~~ Any person who is required to register with the department pursuant to KRS 134.129 who fails to register shall be fined not less than ten dollars (\$10) or more than five hundred dollars (\$500) for each certificate of delinquency purchased while the person was not registered but should have been~~[Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense].~~

~~(7)~~~~(8)~~ Any person who willfully fails to comply with any administrative~~rule or~~ regulation promulgated under subsection ~~(3) of KRS 134.380~~~~(4) of KRS 134.380~~ shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).

~~(8)~~~~(9)~~ Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars (\$100) and be liable on his official bond for the damages sustained by any person aggrieved.

~~(10)~~ Any county attorney who contracts with the department to collect certificates of delinquency and personal property certificates of delinquency who fails to send the notices required by subsection (4) of KRS 134.504~~prepare, and any sheriff who fails to serve, the notice provided for in subsection (3) of KRS 134.500]~~ shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each notice that he or she fails to send.

~~(9)~~~~(11)~~ Any sheriff who ~~intentionally~~ fails to keep his or her books in an intelligible manner and according to the form prescribed by the department~~[of Revenue]~~, or to make the entries required by law, shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each offense.

(10) Any third party-purchaser who attempts to circumvent the fairness of the sale process established pursuant to KRS 134.128 by establishing multiple entities or involving multiple individuals in the bidding process shall be guilty of a Class A misdemeanor. The county attorney and the Attorney General shall have concurrent jurisdiction for the investigation and prosecution of offenses under this section.

(11) (a) Any third party-purchaser who knowingly:

1. Demands costs or fees in excess of those permitted by KRS 134.545;
 2. Fails to send notices as required by KRS 134.490, or to include in the notices the information required by KRS 134.490; or
 3. Fails to provide revised contact information as required by KRS 134.490;
Shall be subject to a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) for the first offense, and for the second and any subsequent offenses, shall be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).
- (b) As used in this subsection, knowingly has the same meaning as in KRS 501.020.
- (12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

KRS 131.130 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 131.500 IS AMENDED TO READ AS FOLLOWS:

EDITED

A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

KRS 134.515 Delinquent taxes, penalties, interest, and other costs constitute lien in favor of Commonwealth -- Duration -- Notice.

(1) If any person liable to pay any tax administered by the department, other than a tax subject to the provisions of KRS 134.420, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(2) The lien imposed by subsection (1) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the commissioner, or his or her designee with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(3) The tax lien imposed by subsection (1) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the commissioner or his or her designee with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the department shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(4) Even though notice of a tax lien has been filed as provided by subsection (3) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (1) of this section shall not be valid with respect to a security interest which

came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (1) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

KRS 132.193 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.195 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.220 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.290 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.370 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.486 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.820 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 132.825 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 133.120 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 133.180 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 133.220 IS AMENDED TO READ AS FOLLOWS:

(1) The department annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.

(2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars (\$100) worth of property for state, county, and school purposes; the name of the taxpayer and his or her mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; ~~and~~ the total amount of taxes due the state, county, school ~~district~~~~fund~~, and any other taxing district for which the sheriff collects taxes; and shall include a statement that notifies the taxpayer that costs and fees increase substantially if the taxes become delinquent~~levies~~. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the department shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him or her of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school ~~district~~~~fund~~, and any other taxing district for which the sheriff collects taxes~~levies~~, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date. The sheriff shall not mail tax notices prior to September 15.

(5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address, or the in-care-of address reflected in the deed as required by KRS 382.135. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the department by the property valuation administrator.

KRS 133.250 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 135.040 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 136.180 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 136.1804 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 136.1877 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 136.320 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 138.715 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 138.880 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 15.460 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 45.241 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 46.040 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 64.012 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 65.375 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 66.480 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 70.020 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 67.938 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 67C.123 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 92.810 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 149.580 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 160.500 IS AMENDED TO READ AS FOLLOWS:

(1) School taxes shall be collected by the sheriff for county school districts and by the regular tax collector of the city or special tax collector for the independent school districts at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular or special tax collector shall be made to cover ~~the~~^{his} duties as the tax collector of the school district or districts for which he ~~or she~~ collects taxes. The tax collector shall be entitled to a ~~commission~~^{fee} equal to his or her expenses incurred in collecting the school taxes, provided that the commission shall~~his expense but~~ not ~~be~~ less than one and one-half percent (1.5%) ~~or more than~~ and not to exceed the rate of four percent (4%) of the amount of school taxes collected, plus four percent (4%) of the amount of any interest earned on the amounts collected and invested by the tax collector prior to distribution to the school district~~for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy~~. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after ~~the~~^{his} term that would not be allowed him ~~or her~~ had he collected the taxes during his ~~or her~~ term.

(2) An independent school district may select a special tax collector to collect its school taxes. ~~If an~~, and in the event such independent school district ~~selects~~^{does so select} a special tax collector, a majority of the members of the independent school district board of education shall fix a ~~commission~~^{fee} for ~~the~~^{such} special tax collector at a rate of not less than one and one-half percent (1.5%) and not more than four percent (4%) of the school taxes or school funds collected by ~~the~~^{such} special tax collector from the local school levy in such independent school district, plus four percent (4%) of the amount of any interest earned on the amounts collected and

invested by the tax collector prior to distribution to the school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector unless~~[except in case]~~ an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (\$0.03) for each separate school tax bill, to be paid by the independent district board of education.

(4) The county clerk shall be the ad valorem tax collector for motor vehicle taxes for county and independent school districts, and shall receive a commission of four percent (4%) of all such moneys collected for any school district, which commission shall be deducted monthly before payment to the depository of the district board of education.

~~(5) [For collections related to January 1, 1984 assessments other than motor vehicles, no county or independent school district shall fix a fee for the sheriff or special tax collector at a lesser percentage rate than was fixed in the prior year.~~

~~(6)~~ The General Assembly of Kentucky finds that commissions and fees set by the General Assembly for services performed in collecting ad valorem taxes by county clerks are the reasonable costs of collection by county clerks and their offices. The county clerk shall account for all funds collected to each taxing authority; however, in any accounting or settlement with district boards of education, the county clerk shall not be required to itemize any incremental costs in any accounting or settlement for ad valorem taxes collected.

KRS 186.020 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 281.602 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 304.20-200 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 304.20-220 IS AMENDED TO READ AS FOLLOWS:

EDITED

KRS 424.330 IS AMENDED TO READ AS FOLLOWS:

~~[(1) When the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360, the fiscal court shall promptly cause a list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of five dollars (\$5) per name per publication shall be added to the amount of each tax claim published as publication costs.~~

~~(2)]~~Cities may publish a list of uncollected delinquent taxes levied under Section 181 of the Kentucky Constitution, showing the name of and the amount due from each delinquent taxpayer, to

be advertised by newspaper publication. A fee of five dollars (\$5) per name per publication may be added to the amount of each tax claim published as publication costs.

KRS 134.480 IS AMENDED TO READ AS FOLLOWS:

EDITED

THE FOLLOWING KRS SECTIONS ARE REPEALED EFFECTIVE JANUARY 1, 2010:

- 134.020 Due date of taxes -- Discount -- Partial payment -- Delinquent taxes -- Penalty -- Revised collection schedule -- Collection efforts.
- 134.030 Extension by Governor of time for payment of taxes -- Relief of sheriff.
- 134.040 Effect of payment of taxes before due.
- 134.050 Tax is personal debt of person liable for payment -- Collection -- Penalties -- Personal checks.
- 134.060 Liability for tax as between holders of various interests in property.
- 134.070 Lien of joint owner paying entire tax.
- 134.080 Payment of tax by holder of lien or person in possession -- Rights on payment -- Lien.
- 134.090 Certificate of transfer issued to person paying tax for person liable -- Form -- Rights of transferee.
- 134.100 Recording of certificate of transfer -- Clerk's fee for record or release.
- 134.110 Duplicate certificate of transfer, where original is lost or destroyed.
- 134.120 Person for whom tax is paid is estopped from tax protest -- Reimbursement of transferee if certificate is invalid.
- 134.130 Release of property from certificate of transfer -- Redemption.
- 134.148 Clerk to file lien for taxes on motor vehicles or trailers -- Accounting by clerk of payments received.
- 134.150 Agents of Department of Revenue not to collect taxes without written authority from commissioner.
- 134.170 Payment of taxes to sheriff -- Receipts -- Deduction of taxes from claim due taxpayer -- Misapplication of funds.
- 134.180 Sheriff or deputy to visit justices' districts to receive tax payments.
- 134.200 Appointment of deputy sheriffs -- Bond -- Removal -- Retention of deputies' compensation by sheriff.
- 134.220 Death, resignation or removal of sheriff -- Sureties may nominate collector.
- 134.240 Form of general revenue bond of sheriff -- Filing and recording.
- 134.250 Special bond of sheriff for county levy -- Minimum -- Record.
- 134.260 Liability of sureties on sheriff's revenue bonds.
- 134.270 Limitation of action against sheriff and sureties.
- 134.280 Failure of sheriff to execute bond.
- 134.290 Compensation of sheriff for collecting state and county taxes.
- 134.295 Supplementation of sheriff's commission.
- 134.300 Reports, payments by sheriff.
- 134.310 Sheriff's annual settlement with county -- Objections -- Action in Circuit Court -- Statement of funds and expenditures -- Settlement for excess fees -- Applicability of KRS 64.368 if population decreases below 70,000.
- 134.320 Report and payment to Department of Revenue -- Penalty.

- 134.325 Sheriff's settlement for taxes collected.
- 134.330 Quietus and bond of sheriff -- Settlement on recertified tax bills.
- 134.340 Sheriff to record delinquent tax collections -- Penalty for failure to record or collect -- Prosecution by county attorney -- Compensation.
- 134.350 Apportionment of partial collection of tax.
- 134.360 Credit to sheriff for uncollectible delinquent taxes and certificates of delinquency.
- 134.385 Special audit by department.
- 134.390 Omitted tax bills, when due and when deemed delinquent -- Penalty -- Laws applicable to delinquency.
- 134.410 Investigation by commissioner of revenue of records of delinquent insurance companies.
- 134.430 Sale of personal property and delinquent tax claims against real property -- Compensation for services.
- 134.440 Advertisement of sale of tax claims -- Compensation of sheriff.
- 134.450 Sale of tax claims -- Offers of purchase -- Certificate of delinquency.
- 134.460 Evidence of validity of tax proceedings.
- 134.470 Liability of taxpayer on uncollectible tax bill or certificate of delinquency -- Action to enforce -- Operation of statute of limitations.
- 134.480 Who may pay certificates of delinquency -- Remedies for failure to release lien or surrender certified copy after payment -- Assignment -- Clerk to receive and record payments -- Records as evidence.
- 134.485 Apportionment of tax encumbrance where land is divided as to ownership and area.
- 134.500 Interest on certificates of delinquency -- Collection of amount due on certificate of delinquency and delinquent personal property tax bills -- Technical resources from department -- Installment payments.
- 134.540 Action to declare tax sale invalid and establish lien of state on sales made prior to June 12, 1940 -- County attorney to assist department -- Compensation.
- 134.550 Foreclosure of lien in action brought on sale made prior to June 12, 1940 -- Redemption before foreclosure.
- 134.560 Limitation of action to invalidate tax sale and establish lien, on sales made prior to June 12, 1940.
- 134.570 Effect of tax deed on sale made prior to June 12, 1940.

NOTE: Although the provisions of Sections 1 to 3 and 5 to 69 of this Act do not become effective until January 1, 2010, the Department of Revenue is authorized and directed to promulgate administrative regulations, develop forms, and take other necessary steps authorized by this Act prior to January 1, 2010, so that the provisions of this Act can effectively be implemented on January 1, 2010.

The provisions of Sections 1 to 3 of this Act and 5 to 69 of this Act take effect January 1, 2010.

Whereas the fiscal circumstances surrounding the sheriff's sale of delinquent tax claims necessitate an immediate change in the process, and because it is necessary for the Department of Revenue to promulgate administrative regulations and develop forms before the provisions of this Act can be implemented, an emergency is declared to exist and Sections 4, 70, and 72 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

To avoid confusion about the application of the provisions of this Act to the sale of 2009 tax bills it is explicitly stated that the provisions of Sections 1 to 3 and 5 to 69 of this Act shall apply to the purchase and sale of delinquent tax claims and certificates of delinquency related to assessments made in calendar year 2009.

HOUSE BILL 315 AN ACT RELATING TO CRIMES AND PUNISHMENTS.

KRS 510.155 IS AMENDED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or KRS Chapter 531.

(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.

(3) *The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense even if the meeting did not occur.*

(4) This section shall apply to electronic communications originating within or received within the Commonwealth.

(5) A violation of this section is punishable as a Class D felony.

KRS 508.130 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

(1) (a) To "stalk" means to engage in an intentional course of conduct:

1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
3. Which serves no legitimate purpose.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. *One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device.*

Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) "Protective order" means:

(a) An emergency protective order or domestic violence order issued under KRS 403.715 to

403.785;

- (b) A foreign protective order, as defined in KRS 403.7521(1);
- (c) An order issued under KRS 431.064;
- (d) A restraining order issued in accordance with KRS 508.155; and
- (e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

KRS 531.010 IS AMENDED TO READ AS FOLLOWS:

As used in this chapter:

- (1) "Distribute" means to transfer possession of, whether with or without consideration.
- (2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, *live image transmitted over the Internet or other electronic network*, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.
- (3) "Obscene" means:
 - (a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and
 - (b) The matter depicts or describes the sexual conduct in a patently offensive way; and
 - (c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (4) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

KRS 531.300 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 531.080 and 531.310 to 531.370:

- (1) "Distribute" means to transfer possession of, whether with or without consideration;
- (2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, *live image transmitted over the Internet or other electronic network*, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials;
- (3) "Obscene" means the predominate appeal of the matter taken as a whole is to a prurient interest in sexual conduct involving minors;
- (4) "Sexual conduct by a minor" means:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family;
- (5) "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience;
- (6) "Sexual performance" means any performance or part thereof which includes sexual

conduct by a minor; and

(7) "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

A NEW SECTION OF KRS CHAPTER 17.500 TO 17.580 IS CREATED TO READ AS FOLLOWS:

KRS 17.546 Registrant prohibited from using social networking Web site or instant messaging or chat room program accessible to minors.

(1) As used in this section:

(a) "Instant messaging or chat room program," means a software program that allows two (2) or more persons to communicate over the Internet in real time using typed text; and

(b) "Social networking Web site," means an Internet Web site that:

1. Facilitates the social introduction between two (2) or more persons;

2. Allows a person to create a Web page or a personal profile; and

3. Provides a person who visits the Web site the opportunity to communicate with another person.

(2) No registrant, as defined in KRS 17.500, shall knowingly or intentionally use a social networking Web site or an instant messaging or chat room program if that Web site or program allows a person who is less than eighteen (18) years of age to access or use the Web site or program.

(3) Any person who violates subsection (2) of this section shall be guilty of a Class A misdemeanor.

KRS 17.510 IS AMENDED TO READ AS FOLLOWS:

(1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.

(3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

(4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, DNA sample, and photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided a DNA sample as of July 1, 2008, shall provide a DNA sample to the

appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.

(5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.

(b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.

(c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.

(6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.

(7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

(8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.

(9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.

(10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

(c) *If the electronic mail address or any instant messaging, chat, or other Internet communication name identities of any registrant changes or if the registrant creates or uses any new Internet communication name identities, the registrant shall register the change or new identity, on or before the date of the change or use or creation of the new identity, with the appropriate local probation and parole office in the county in which he or she resides.*

(d) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.

2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection *or learns of the registrant's new or changed electronic mail address or instant messaging, chat, or other Internet communication name identities under paragraph (c) of this subsection,* that office shall forward this information as set forth under subsection (5) of this section.

(11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(13) (a) The cabinet shall verify the addresses *and the electronic mail address and any instant messaging, chat, or other Internet communication name identities* of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the cabinet determines that a person has moved *or has created or changed any electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person* without providing his or her new address, *electronic mail address, or instant message, chat, or other Internet communication name identity* to the appropriate local probation and parole office or offices as required under subsection (10)(a), ~~and~~ (b) *and (c)* of this section, the cabinet shall notify the appropriate local probation and parole office of the new address *or electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person.* The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

(b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:

1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

KRS 17.580 IS AMENDED TO READ AS FOLLOWS:

(1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:

(a) The registrant information, except for *electronic mail address or any instant messaging, chat, or other Internet communication name identities included in a registrant's registration data, as well as* information that identifies a victim, DNA samples, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;

(b) The sex offender information, except for information that identifies a victim, DNA samples, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and

(c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

(2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.

(3) *The Web site shall provide public access to electronic mail addresses and any instant messaging, chat, or other Internet communication name identities used by registrants solely by use of a search function on the Web site through which members of the public may enter an electronic mail address or any instant messaging, chat, or other Internet communication name identity and receive an answer as to whether the entered identifier is included in the registrant information for any registrant.*

(4) The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."

~~(5)(4)~~ (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

(b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.

~~(6)(5)~~ The cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.

~~(7)(6)~~ In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the

warning specified in subsection (3) of this section.

A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

KRS 500.092 Forfeiture of personal property not used as a residence.

(1) Notwithstanding KRS 500.090, all personal property which is not used as a permanent residence in this state which is used in connection with or acquired as a result of a violation or attempted violation of any of the statutes set out in subsection (3) of this section shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.

(2) Administrative regulations promulgated under KRS 218A.420 shall govern expenditures derived from forfeitures under this section to the same extent that they govern expenditures from forfeitures under KRS 218A.405 to 218A.460.

(3) The following offenses may trigger forfeiture of personal property under subsection (1) of this section:

(a) KRS 17.546;

(b) KRS 508.140 and 508.150 involving the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device;

(c) KRS 510.155;

(d) KRS 530.064(1)(a);

(e) KRS 531.030;

(f) KRS 531.040

(g) KRS 531.310;

(h) KRS 531.320;

(i) KRS 531.335;

(j) KRS 531.340;

(k) KRS 531.350;

(l) KRS 531.360; and

(m) KRS 531.370.

KRS 16.210 IS AMENDED TO READ AS FOLLOWS:

(1) Property taken by the Department of Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.

(2) Property which is forfeited may be disposed of as provided by KRS 500.090 *or KRS 500.092, whichever is applicable*; however, the proceeds of any sale shall go to the state or be distributed as otherwise provided by law.

(3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

KRS 500.090 IS AMENDED TO READ AS FOLLOWS:

(1) *Except as provided in KRS 500.092*, all property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was

obtained.

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

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Department of Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Department of Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

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

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

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

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

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his or her claim before disposition of the property pursuant to this section;

(b) Establishes his or her legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his or her knowledge and consent. This subsection shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

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

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon, and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Department of Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him or her of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he or she lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his or her claim to the property after notification or if he or she renounces his or her claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

KRS 500.120 Subpoena power of Attorney General in cases involved use of an Internet service account in the exploitation of children and other cases.

(1) In any investigation relating to an offense involving KRS 510.155, 530.064(1)(a), 531.030, 531.040, 531.310, 531.320, 531.335, 531.340, 531.350, 531.360, or 531.370, and upon

reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, or in any investigation of a violation of KRS 17.546, KRS 508.140, 508.150, 525.070, or 525.080 where there is reasonable cause to believe that an Internet Service Account has been used in the commission of the offense, the Attorney General may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (2) of this section.

(2) Except as provided in subsection (3) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including:

1. Electronic mail address;
2. Internet username;
3. Internet protocol address;
4. Name of account holder;
5. Billing and service address;
6. Telephone number;
7. Account status;
8. Method of access to the Internet; and
9. Automatic number identification records if access is by modem.

(3) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena issued under this section but shall disclose the information in obedience to a warrant:

- (a) In-transit electronic communications;
- (b) Account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
- (c) Account passwords; and
- (d) Account content including:
 1. Electronic mail in any form;
 2. Address books, contacts, or buddy lists;
 3. Financial records;
 4. Internet proxy content or Web surfing history; and
 5. Files or other digital documents stored with the account or pursuant to use of the account.

(4) At any time before the return date specified on the subpoena, the person summoned may, in the District Court in which the person resides or does business, petition for an order modifying or setting aside the subpoena, or a prohibition of disclosure by a court.

(5) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date with a reasonable period of time within which the objects can be assembled and made available.

(6) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the Attorney General shall either destroy the records and documentation or return them to the person who produced them.

(7) A subpoena issued under this section may be served by any person who is at least eighteen (18) years of age and who is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a corporation or partnership or other unincorporated association which is subject to suit under its common name, by delivering the subpoena to an officer, to a

managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena together with a true copy thereof shall be proof of service.

(8) Except as provided in this section any information, records or data reported or obtained pursuant to subpoena under this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

KRS 434.697 Phishing

(1) For purposes of this section:

(a) "Electronic mail message," means a message sent to a unique destination that consists of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which the message can be sent or delivered; and

(b) "Identifying information," means specific details that can be used to access a person's financial accounts or to obtain goods or services, including but not limited to the person's Social Security number, driver's license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, or account password.

(2) A person is guilty of phishing if he or she knowingly or intentionally solicits, requests, or takes any action to induce another person to provide identifying information by means of a Web page, electronic mail message, or otherwise using the Internet, by representing himself or herself either directly or by implication, to be a third person without the authority or approval of such other person.

(3) In any prosecution for a violation of this section, the Commonwealth is not required to establish, and it is no defense that:

(a) A person other than the defendant who violated this section has not been convicted, apprehended, or identified; or

(b) Some of the acts constituting a violation of this section did not occur in Kentucky or were not a criminal offense or elements of a criminal offense where they did occur.

(4) Phishing is a Class D felony.

HOUSE BILL 321 AN ACT RELATING TO THE COLLECTION, STORAGE, AND USE OF DNA SAMPLES.

KRS 17.169 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this section and KRS 17.170 and 17.175, the following definitions shall apply:

(1) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and

(2) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

KRS 17.170 is repealed, reenacted, and amended to read as follows:

(1) Any DNA sample collected pursuant to the law in effect prior to ~~March 27, 2009~~^{July 1, 2008}, shall be maintained and used pursuant to this section and KRS 17.175 and 17.510.

(2) **The following persons shall have a DNA sample collected by authorized personnel:**

(a) Any person convicted on or after ~~March 27, 2009~~^{July 1, 2008}, of a felony offense under the Kentucky Revised Statutes; or

(b) Any juvenile who was at least fourteen (14) years of age at the time of the commission of the offense and who stands adjudicated delinquent of being a public offender by a court of competent jurisdiction, of:

1. Any felony offense in KRS Chapter 510;

2. Incest as defined in KRS 530.020;

3. Criminal attempt or criminal conspiracy to commit an offense identified in subparagraph 1. or 2. of this paragraph; or

4. Being a juvenile sexual offender under KRS 635.510, being thirteen (13) years of age or older at the time of the commission of the offense, adjudicated as a public offender for an offense identified in KRS 439.3401(1) or 530.020 on or after July 1, 2008, or who is in the custody of the Department of Corrections, the Department of Juvenile Justice, or a local or county jail on or after July 1, 2008, based upon a conviction or adjudication of an offense identified in this subsection, shall have a DNA sample collected by authorized personnel].

(3) Any person who is required to register as a sex offender under KRS 17.510 who is not otherwise required to submit to a DNA sample collection under this section or KRS 17.510, including those persons convicted of a felony or adjudicated as a public offender on offenses in other jurisdictions as identified in KRS 17.510(6) and (7), shall have a DNA sample collected by authorized personnel.

(4) Any person who is required to provide a DNA sample pursuant to subsection (2) of this section and who is released from custody upon sentencing or adjudication shall immediately report to the local probation and parole office and shall have a DNA sample collected by authorized personnel.

(5) A DNA sample shall be obtained in an approved manner by authorized personnel, a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged with supplies and containers provided by the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to administrative regulations by the cabinet.

(6) Authorized personnel collecting DNA samples under this section or KRS 17.510 are not engaging in the practice of medicine pursuant to KRS 311.550.

(7) Any person required to provide a DNA sample under this section or KRS 17.510 who, after receiving notice of the requirement to provide a DNA sample, knowingly refuses to provide such DNA sample, shall be guilty of a Class A misdemeanor for each separate violation of the offense.

(8) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

KRS 17.175 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted or adjudicated offenders, crime scene specimens, unidentified human remains,

missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.

(2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.

(3) The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify DNA samples received from the Department of Corrections, the Department of Juvenile Justice, and other sources, and shall file the DNA results in the centralized databases for law enforcement identification and statistical purposes.

(4) DNA identification records produced from the samples are not public records but shall be confidential and used only for law enforcement purposes. DNA identification records shall be exempt from the provisions of KRS 61.870 to 61.884.

(5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the conviction or adjudication on which the authority for including the DNA profile was based has been reversed and the case dismissed, or that the person successfully completed the pretrial diversion program under KRS 533.258 and the charges were dismissed-diverted. The Department of Kentucky State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:

(a) A written request for expungement pursuant to this section; and

(b) Either:

1. A certified copy of the court order reversing and dismissing the conviction or adjudication; or

2. A certified copy of the court order deeming the charges dismissed-diverted.

(6) The cabinet shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of DNA samples and the database system usage and integrity.

(7) The Department of Kentucky State Police shall destroy all DNA samples that are not entered into the DNA database identification system.

(8) Any person who disseminates, receives, or otherwise uses or attempts to use information in the DNA database identification system, knowing that such dissemination, receipt, or use is for a purpose other than authorized by this section, shall be guilty of a Class D felony.

KRS 17.500 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 17.500 to 17.580:

(1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;
 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 7. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 9. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);
 10. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;
 11. Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and
 12. Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph.
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to

register each residence address;

(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

(11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;

(12) "Victim" has the same meaning as in KRS 421.500;

(13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and

(14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

KRS 17.510 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

(1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.

(3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

(4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, DNA sample, and photograph. Thereafter, the registrant shall return to the appropriate local probation and

parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided a DNA sample as of July 1, 2009[2008], shall provide a DNA sample to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.

(5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.

(b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.

(c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.

(6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.

(7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or

educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

(8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.

(9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.

(10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

(c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.

2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.

(11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(13) (a) The cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

(b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:

1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and

2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

KRS 17.580 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:

(a) The registrant information, except for information that identifies a victim, DNA samples, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;

(b) The sex offender information, except for information that identifies a victim, DNA samples, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and

(c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

(2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.

(3) The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."

(4) (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

(b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.

(5) The cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.

(6) In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3) of this section.

THE FOLLOWING KRS SECTIONS ARE REPEALED:

17.171 Application of KRS 17.170 to DNA evidence in cases involving minors.

17.172 Application of KRS 17.170 to DNA evidence in burglary cases.

17.173 Application of KRS 17.170 to DNA evidence in capital cases and certain felony cases.

17.174 Application of KRS 17.171 and 17.172 to public offenders.

17.177 Effective dates and implementation of legislation relating to DNA testing.

NOTE: It is the intent of the General Assembly that the Department of Kentucky State Police may retain all DNA samples collected on or after July 1, 2008, pursuant to 2008 Ky. Acts, ch. 9 to 16.

It is the intent of the General Assembly that the Department of Kentucky State Police may utilize DNA samples collected on or after July 1, 2008, pursuant to 2008 Ky. Acts, ch. 9 to 16 for the purposes specified therein.

Whereas the effective and efficient protection of the public from crime is a fundamental duty of government and a needless delay in the implementation of this Act delays that protection, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HOUSE BILL 369 AN ACT RELATING TO CRIMES AND PUNISHMENTS.

KRS 434.650 IS AMENDED TO READ AS FOLLOWS:

(1) A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:

(a) Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked; or

(b) Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or

(c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or

(d) Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his lawful or legal property, is guilty of a Class A misdemeanor, if the value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more ~~exceeds one hundred dollars (\$100) in any six (6) month period~~.

(2) A person who receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4)

days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

KRS 434.655 IS AMENDED TO READ AS FOLLOWS:

(1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, as stolen, or not received is deemed to have used said credit or debit card in order to defraud the issuer; and said cardholder shall be guilty of a Class A misdemeanor ~~is subject to the penalties set forth in subsection (1) of KRS 434.730~~ if the value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500), a Class D felony ~~does not exceed three hundred dollars (\$300) in any six (6) month period; and is subject to the penalties set forth in subsection (2) of KRS 434.730;~~ if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more ~~is three hundred dollars (\$300) or more in any six (6) month period~~.

(2) A cardholder who, after using a credit or debit card, fraudulently reports to the issuer that such usage or transaction was not made by said cardholder, or that said credit or debit card was lost, stolen, or not received at the time of such usage or transaction, in order to defraud the issuer, the cardholder, or any other person in connection with said usage, shall be guilty of a Class A misdemeanor ~~is subject to the penalties set forth in subsection (1) of KRS 434.730;~~ if the value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500), a Class D felony if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more ~~does not exceed three hundred dollars (\$300) in any six (6) month period; and is subject to the penalties set forth in subsection (2) of KRS 434.730 if such value is three hundred dollars (\$300) or more in any six (6) month period~~.

KRS 434.660 IS AMENDED TO READ AS FOLLOWS:

A person, business organization, or financial institution who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit or debit card by a cardholder, or any agent or employee of such person, business organization, or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person, furnishes money, goods, or services or anything else of value upon presentation of a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked is guilty of a Class A misdemeanor, if the value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500) ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony ~~;~~ if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more ~~exceeds one hundred dollars (\$100) in any six (6) month period~~.

KRS 434.670 IS AMENDED TO READ AS FOLLOWS:

A person, business organization, or financial institution who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit or debit card by a cardholder, or any agent or employee of such person, business organization, or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished over a six (6) month period is guilty of a Class A misdemeanor, if the difference between the value of all money, goods, services, or anything else of value actually furnished and the value represented to the issuer to have been furnished is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more.

KRS 434.690 IS AMENDED TO READ AS FOLLOWS:

(1) A person who receives money, goods, services, or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of a Class A misdemeanor, if the value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony, if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more, ~~exceeds one hundred dollars (\$100) in any six (6) month period~~.

(2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or other transportation service, which tickets were obtained by the use of a stolen or forged credit or debit card is presumed to know that such tickets were so obtained.

KRS 514.030 IS AMENDED TO READ AS FOLLOWS:

...

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is five hundred dollars (\$500), ~~three hundred dollars (\$300)~~ or more, in which case it is a Class D felony; or unless:

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; ~~or~~

(b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense; or

(c) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.040 IS AMENDED TO READ AS FOLLOWS:

...

(8) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is:

(a) Five hundred dollars (\$500), ~~three hundred dollars (\$300)~~ or more but less than ten

thousand dollars (\$10,000), in which case it is a Class D felony; or
(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.050 IS AMENDED TO READ AS FOLLOWS:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid, or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid, or delivered by mistake is a Class A misdemeanor unless the value of the property is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.060 IS AMENDED TO READ AS FOLLOWS:

(1) A person is guilty of theft of services when:

...

(4) Theft of services is a Class A misdemeanor unless the value of the service is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.070 IS AMENDED TO READ AS FOLLOWS:

(1) A person is guilty of theft by failure to make required disposition of property received when:

...

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

(5) No person shall be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of KRS 522.050 arising out of the same incident.

KRS 514.080 IS AMENDED TO READ AS FOLLOWS:

...

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.090 IS AMENDED TO READ AS FOLLOWS:

...

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more **but less than ten thousand dollars (\$10,000)**, in which case it is a Class D felony; **or**

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 514.110 IS AMENDED TO READ AS FOLLOWS:

...

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

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

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

(a) The value of the property is five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more **but less than ten thousand dollars (\$10,000)**, in which case it is a Class D felony;

(b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;~~or unless:~~

~~**(c)(a)**~~ The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or

~~**(d)(b)**~~ The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

KRS 514.120 IS AMENDED TO READ AS FOLLOWS:

...

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is:

(a) Five hundred dollars (\$500)~~three hundred dollars (\$300)~~ or more **but less than ten thousand dollars (\$10,000)**, in which case it is a Class D felony; **or**

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

KRS 506.120 IS AMENDED TO READ AS FOLLOWS:

(1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

- (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
 - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
 - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
 - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;~~or~~
 - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600;
 - (h) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of more than one (1) theft of retail merchandise with the intent to resell the stolen merchandise; or**
 - (i) Acquire stolen retail merchandise for the purpose of reselling it where the person knew or should have known that the merchandise had been stolen.**
- (2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony, **unless the offense involves only the theft or acquisition of retail merchandise for the purpose of reselling it in which case it shall be a Class C felony.**
- (3) As used in this section "criminal syndicate" means five (5) or more persons, **or, in cases of merchandise theft from a retail store for the purpose of reselling the stolen merchandise, two (2) or more persons,** collaborating to promote or engage in any of the following on a continuing basis:
- (a) Extortion or coercion in violation of KRS 514.080 or 521.020;
 - (b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529;
 - (c) Any theft offense as defined in KRS Chapter 514;
 - (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;
 - (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237; or
 - (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

KRS 532.356 IS AMENDED TO READ AS FOLLOWS:

- (1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, **and, for the purposes of paragraph (b) of this subsection, any Class C felony offense listed in subsection (3) of this section,** the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:
- (a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and
 - (b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.

(2) In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of KRS 514.030 involving the theft of gasoline or special fuels from a retail establishment and the defendant has been previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a retail establishment. A retail establishment may post a sign at the location where the fuel is dispensed apprising the public of the sanctions available under this subsection.

(3) (a) In addition to any other penalty allowed by law, a court shall declare the defendant ineligible to operate a motor vehicle for the period of time that any amount of restitution ordered under this section remains unpaid, where the restitution is imposed as the result of the commission of the following offenses:

1. KRS 434.650;
2. KRS 434.655;
3. KRS 434.660;
4. KRS 434.670;
5. KRS 434.690;
6. KRS 514.030;
7. KRS 514.040;
8. KRS 514.050;
9. KRS 514.060;
10. KRS 514.070;
11. KRS 514.080;
12. KRS 514.090;
13. KRS 514.110;
14. KRS 514.120; or
15. KRS 506.120.

(b) Upon motion by the defendant with proper notice to the office of the attorney who represented the Commonwealth at sentencing, the court may authorize the defendant to obtain the hardship license authorized under KRS Chapter 189A. The defendant shall be subject to the same operating restrictions and penalties for noncompliance as are set out for a hardship license in that chapter. The court may waive compliance with provisions of KRS Chapter 189A relating to alcohol treatment and ignition interlock installation for the purpose of authorizing issuance of a hardship license under this section.

(4) Sanctions imposed by the sentencing court shall become a judgment of the court. Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.

HOUSE BILL 372 AN ACT RELATING TO PROBATION AND PAROLE.

KRS 439.340 IS AMENDED TO READ AS FOLLOWS:

...

(3) (a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years who is confined to a state penal institution or county jail

shall have his or her case reviewed by the Parole Board after serving fifteen percent (15%) or two (2) months of the original sentence, whichever is longer.

(b) Except as provided in paragraph (a) of this subsection, the board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

KRS 439.344 IS AMENDED TO READ AS FOLLOWS:

The period of time spent on parole shall ~~not~~ count as a part of the prisoner's ~~maximum~~ sentence, except when a parolee is:

- (1) Returned to prison as a parole violator for a new felony conviction;
- (2) Classified as a violent offender pursuant to KRS 439.3401; or
- (3) A registered sex offender pursuant to KRS 17.500 to 17.580 in determining parolee's eligibility for a final discharge from parole as set out in ~~KRS 439.354~~.

KRS 439.354 IS AMENDED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, when any paroled prisoner has performed the obligations of his or her parole during his or her period of active parole supervision the board may, at the termination of such period to be determined by the board, issue a final discharge from parole to the prisoner. Unless ordered earlier by the board, a final discharge shall be issued when the prisoner has been out of prison on parole a sufficient period of time to have been eligible for discharge from prison by ~~minimum~~^{maximum} expiration of sentence had he or she not been paroled, provided before this date he or she had not absconded from parole supervision or that a warrant for parole violation had not been issued by the board.

(2) When any paroled prisoner classified as a violent offender pursuant to KRS 439.3401, or registered as a sex offender pursuant to KRS 17.500 to 17.580, has performed the obligations of his or her parole, the board shall issue a final discharge from parole to the prisoner when the prisoner has been out of prison on parole a sufficient period of time to have been eligible for discharge from prison by maximum expiration of sentence had he or she not been paroled, provided before this date he or she had not absconded from parole supervision or that a warrant for parole violation had not been issued by the board.

KRS 532.050 IS AMENDED TO READ AS FOLLOWS:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody ~~and is ineligible for probation or conditional discharge~~.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of a sex crime, as defined in KRS 17.500, prior to determining the sentence or prior to final sentencing for youthful offenders, the court shall order a comprehensive sex offender presentence evaluation of the defendant to be conducted by an approved provider, as defined in KRS 17.500, the Department of Corrections, or the Department of Juvenile Justice if the defendant is a youthful offender. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the comprehensive sex offender presentence evaluation shall be furnished to the court, the Commonwealth's attorney, and to counsel for the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the comprehensive sex offender presentence evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any comprehensive sex offender presentence evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

(5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.

(6) Before imposing sentence, the court shall advise the defendant or his or her counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

NOTE: The provisions of Sections 1, 2, and 3 of this Act shall control over any contrary, more expansive, or more permissive provision of 2008 Ky. Acts ch. 127.

SENATE BILL 4 AN ACT RELATING TO CRIMES AND PUNISHMENTS AND DECLARING AN EMERGENCY.

A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

KRS 196.285 Intensive secured substance abuse recovery program

(1) The department shall develop an intensive secured substance abuse recovery program utilizing existing resources or by contract to house and care for persons suffering from substance abuse who have been charged with a felony offense.

(2) The program shall accept persons referred to it under KRS 533.250 and KRS 533.251.

(3) Persons may agree to be ordered into the program for a period of not less than

ninety (90) days and not more than three hundred sixty-five (365) days. No person shall be involuntarily ordered into the program, a commitment shall not occur before the court has considered an evaluation of the defendant's treatment needs and conducted a hearing where the defendant may appear with counsel with an opportunity to present evidence on his or her own behalf, and persons in the program may petition the court to review the program's determination as to the length of time the person is to remain in the program or to issue an order to leave the program, which the court shall grant upon request, at any time. However, that departure shall constitute a material breach of any agreement to hold the person's case in abeyance or of the person's pretrial diversion agreement. The court shall revoke a defendant's program commitment over the defendant's objection prior to the expiration of the commitment period only pursuant to an order of the committing court issued after the court has conducted a hearing on the matter where the defendant may appear with counsel and present evidence on his or her behalf.

(4) The department shall locate the program in a secure facility with security standards comparable to those found in a minimum security correctional institution operated by the department.

(5) The program shall be capable of concurrently housing no fewer than two hundred (200) persons. The department shall have regulatory authority, when the program is at or near capacity, to prioritize admissions to the program.

(6) The program's recovery component shall be designed to serve the committed person's substance abuse condition, and to provide the person with the skills and training needed to prevent the person from engaging in substance abuse upon release from the program. The program shall provide each person leaving the program with an aftercare plan, which shall include a referral to a local substance abuse provider capable of providing a level of continuing substance abuse care appropriate to the released person's needs. In designing the program, the department shall consult with and may contract with the Division of Mental Health and Substance Abuse Services.

KRS 431.515 IS AMENDED TO READ AS FOLLOWS:

(1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550, including KRS 431.518, and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.

(2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.

A NEW SECTION OF KRS 431.510 TO 431.550 IS CREATED TO READ AS FOLLOWS:

KRS 431.518 Pretrial release of felony drug offender or felony offender with a history of substance abuse.

When considering the pretrial release of a person charged with a felony offense under KRS Chapter 218A or a person charged with a felony offense whose criminal record indicates a history of recent and relevant substance abuse, the court considering the release shall cause the court's pretrial release investigation and services office to have the person screened for recent and relevant substance abuse risk factors. A person's refusal to

participate in the screening shall not disqualify the person from being granted pretrial release. If this screening indicates the presence of recent and relevant substance abuse risk factors, the court may order as a condition of pretrial release that the person:

(1) Undertake any testing ordered by the court under KRS 431.520 or 431.525;

(2) Participate in an additional assessment of the person's condition;

(3) Participate in a secular or faith-based treatment or recovery program if one (1) is identified as appropriate to the person as a result of the person's initial assessment or an additional assessment performed under subsection (2) of this section; and

(4) Appear at any subsequent hearing ordered by the court where the person's conditions of pretrial release may be reviewed and modified as the result of any testing performed under subsection (1) of this section, any additional assessment performed under subsection (2) of this section, any additional assessment of the defendant performed by a qualified mental health professional which the defendant may offer for the court's consideration, or the person's compliance with any treatment or recovery plan ordered by the court under subsection (3) of this section.

A NEW SECTION OF KRS 533.250 TO 533.260 IS CREATED TO READ AS FOLLOWS:

KRS 533.251 Pretrial diversion program for felony drug offender and felony offender with a history of substance abuse.

(1) Every pretrial diversion program shall set as a condition precedent for entry into the program that any defendant charged with a Class D felony offense under KRS Chapter 218A and any defendant charged with a Class D felony offense whose criminal, medical, or mental health record indicates a present need for or benefit from substance abuse treatment participate in and demonstrate suitable compliance with the terms of a secular or faith-based substance abuse treatment or recovery program if space is available in a treatment or recovery program suitable for that defendant. The substance abuse treatment or recovery program shall be appropriate to the defendant's needs, and may include commitment to an intensive outpatient program, a residential substance abuse treatment or recovery facility, or the intensive secured drug abuse treatment program developed under KRS 196.285. Consideration may be given, in whole or in part, to a defendant's participation in drug monitoring or a substance abuse treatment or recovery plan ordered under Section 3 of this Act as evidence of suitable compliance under this section.

(2) The court may waive compliance with subsection (1) of this section if the defendant can show that exigent circumstances exist sufficient to justify diversion program participation without a prior demonstration of treatment compliance.

(3) The court may continue in effect any nonfinancial conditions of pretrial release imposed under KRS 431.520 or 431.525 and may hold the case in abeyance during the period of time the defendant is attempting treatment or recovery prior to diversion under subsection (1) of this section.

(4) The court may allow a person charged with a Class C felony to participate in a secular or faith-based substance abuse treatment or recovery program under subsection (1) of this section or obtain a waiver under subsection (2) of this section. If the person is successful in the program or is waived, the person shall be eligible for entry into the pretrial diversion program under the same terms, conditions, and limitations as a Class D felon.

KRS 533.250 IS AMENDED TO READ AS FOLLOWS:

(1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:

(a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense. ~~;~~

(b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045. ~~;~~

(c) No person shall be eligible for pretrial diversion more than once in a five (5) year period. ~~;~~

(d) No person shall be eligible for pretrial diversion who has committed a sex crime as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510. ~~;~~

(e) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program. ~~;~~

(f) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion;

(g) The provisions of KRS 533.251 shall be observed; and

(h) The program may include as a component referral to the intensive secured substance abuse treatment program developed under KRS 196.285 for persons charged with a felony offense under KRS Chapter 218A and persons charged with a felony offense whose record indicates a history of recent and relevant substance abuse who have not previously been referred to the program under KRS 533.251.

(2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.

(3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

KRS 532.120 IS AMENDED TO READ AS FOLLOWS:

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:

- (a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
- (b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of the aggregate term.
- (3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.
- (4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.
- (5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

(6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program developed under KRS 196.285 and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to KRS 431.518 or KRS 533.251, if under each option allowed by this subsection, the person has successfully completed the program offered by the intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility. If the defendant fails to complete a program, the court may still award full or partial sentence credit if the defendant demonstrates that good cause existed for the failure to complete the program.

NOTE: Whereas the citizens of Kentucky face a present and ongoing danger as the result of substance abuse-driven crime and the provisions of this Act offer relief from that danger, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SENATE BILL 8 AN ACT RELATING TO DONATIONS.

A NEW SECTION OF KRS 367.170 TO 367.300 IS CREATED TO READ AS FOLLOWS:

KRS 367.178 *Collection of donated clothing, household items, or other items for resale.*

(1) (a) As used in this section, "charitable or civic organization" means a person determined by the Internal Revenue Service or the Kentucky Department of Revenue to be a tax-exempt organization.

(b) "Charitable or civic organization" does not include a person or organization operating for profit.

(2) A person that is not a charitable or civic organization shall not place or maintain a

receptacle in public view for the purpose of collecting donated clothing, household items, and other items for future resale unless the person places on the receptacle a permanent label or sign that includes the following information:

(a) A statement that reads as follows: "Donations made here support a for-profit business, do not qualify as a charitable contribution, and are not tax-deductible."; and

(b) The person's name and phone number or e-mail address.

The sign or label shall be in the largest lettering that the receptacle will accommodate, but shall not be less than three (3) inches in height and one-half (1/2) inch in width. The sign or label shall be placed immediately below the opening in the box used to deposit donations.

(3) A violation of this section shall be an unlawful act under KRS 367.170.

(4) The county attorney shall have concurrent jurisdiction with the Attorney General in enforcing this section, and shall have the powers granted the Attorney General under KRS 367.110 to 367.300 if he or she assumes jurisdiction. Actions brought under KRS 367.990(1) and (2) by the county attorney shall be in the name of the county and any penalties imposed shall be paid to the county.

SENATE BILL 22 AN ACT RELATING TO PERSONAL SERVICES AND MAKING AN APPROPRIATION THEREFOR.

A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

KRS 216.710 Definitions for KRS 216.710 to 216.714

As used in KRS 216.710 to KRS 216.714:

(1) "Cabinet" means the Cabinet for Health and Family Services;

(2) "Client" means an individual who has been accepted to receive personal services from a personal services agency;

(3) "Crime" means a conviction of or plea of guilty to a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult or child; or the commission of a sex crime. Conviction of or a plea of guilty to an offense committed outside the Commonwealth of Kentucky is a crime if the offense would have been a felony if committed in Kentucky;

(4) "Department" means a department designated by the Cabinet for Health and Family Services;

(5) "Designated representative" means a person who has legal authority or is designated by the client to act on behalf of the client with regard to the action to be taken;

(6) "Direct service" means personal or group interaction between the employee and the client;

(7) (a) "Personal services" means:

1. Assisting with a client's ambulation and activities of daily living as defined in KRS 194A.700;

2. Facilitating the self-administration of medications if such medications are prepared or directed by a licensed health-care professional or the client's designated representative;

3. Providing services which may be referred to as attendant care, in-home companion, sitter and respite care services, and homemaker services when provided in conjunction with other personal services; and

4. Providing services that enable the client to live safely, comfortably, and independently.

(b) "Personal services" excludes the following:

1. Housing and services provided by a health facility or service as defined in KRS 216B.015;

2. Voluntary services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business;

3. House cleaning, laundry, personal shopping, or transportation provided by an entity if the entity offers no other personal services;

4. Services provided by the client's family or by individuals who provide services to no more than three (3) clients concurrently;

5. Individuals or entities that provide all personal services on a voluntary basis;

6. Services that require the order of a licensed health-care professional to be lawfully performed in Kentucky;

7. Hospitals or other entities that provide information to consumers regarding persons who are available as caregivers if the hospital or other entity makes no attempt to manage or coordinate the selection of such persons for consumers and a disclaimer is provided that the entity providing the information has not made an independent assessment of the ability of the individual or agency to provide personal services;

8. Free Internet resources that identify potential caregivers; and

9. Any health-care entity or health-care practitioner otherwise licensed, certified, or regulated by local, state, or federal statutes or regulations;

(8) "Personal services agency" means any person, business entity, corporation, or association, either for-profit or not-for-profit, that directly provides or makes provision for personal services through:

(a) Its own employees or agents;

(b) Contractual arrangements with independent contractors; or

(c) Referral of persons to render personal services if the person making the referral has an ownership or financial interest that is realized from the delivery of those services.

(9) "Parent personal services agency" means a personal services agency located in Kentucky that develops and maintains administrative and fiscal control over a branch office in a different Kentucky location, and does not include an out-of-state personal services agency with a branch office in Kentucky; and

(10) "Secretary" means the secretary of the Cabinet for Health and Family Services.

A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

KRS 216.712 Certification of personal services agency required -- Criminal background check -- Administrative regulations -- Fees.

(1) No personal services agency shall be operated, maintained, or advertised without obtaining a certificate as provided in this section. Entities that operate personal services agencies, as defined in KRS 216.710, in Kentucky on the effective date of this section shall have until December 31, 2009, to file an application for certification pursuant to this section. All other agencies shall be required to obtain certification prior to providing personal services. A parent personal services agency with one (1) or more branch offices in Kentucky shall not be required to obtain separate certificates for each of its branch offices.

(2) Each personal services agency providing direct services to clients as defined in KRS 216.710 shall perform a criminal background check on any applicant for employment prior to employing the applicant. Each application provided by the personal services agency to the applicant for initial employment shall state in a conspicuous manner on the application "For This Type of Employment State Law Requires a Criminal Background Check as Condition of Employment."

(3) No personal services agency shall employ a person in a position which involves providing direct services to a client if the employee has been convicted of a crime as defined by KRS 216.710.

(4) The secretary shall promulgate administrative regulations to implement this section and KRS 216.712 and KRS 216.716. The administrative regulations at a minimum shall establish:

(a) An initial and annual certification review process for personal services agencies that does not require an on-site visit;

(b) Procedures related to applying for, reviewing, approving, denying, and revoking certification;

(c) Fees for application and reapplication in an amount sufficient to offset the cost to administer KRS 216.714 and KRS 216.716;

(d) Procedures for complaint investigations;

(e) Procedures for the imposition and collection of fines as provided by KRS 431.518;

(f) Policies and procedures for the personal services agencies;

(g) Procedures for criminal background checks;

(h) Procedures to ensure the competency of the individuals providing personal services, the requirements of written service agreements between the personal services agencies and clients or designated representatives, and the requirements of personal service plans for the clients; and

(i) Procedures to be utilized in the conduct of hearings upon appeals in accordance with KRS Chapter 13B.

(5) Only those personal services agencies meeting the standards prescribed for certification shall be granted a certificate.

(6) All fees collected under the provisions of this section shall be paid into the State Treasury and credited to the Kentucky personal services agency fund created by Section 4 of this Act.

A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

KRS 216.714 Fines for operating without required certification.

(1) Any personal services agency that provides services without receiving certification pursuant to KRS 216.712 may be fined up to five hundred dollars (\$500) per day.

(2) Any business that markets its services as a personal services agency without receiving certification pursuant to KRS 216.712 may be fined up to five hundred dollars (\$500) per day.

(3) All fines collected pursuant to this section shall be deposited in the fund established by KRS 216.716.

A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

NOTE: Apparently the Legislative Research Council reassigned this provision to KRS 216.

KRS 216.716 Kentucky personal services agency fund.

(1) (a) There is created a trust and agency fund to be known as the Kentucky personal services agency fund.

(b) The fund shall be administered by the Finance and Administration Cabinet.

(c) The fund shall be funded with moneys collected under KRS 216.712 and KRS 216.714.

(2) Moneys in the fund shall be used by a department designated by the secretary of the Cabinet for Health and Family Services to administer KRS 216.712 and KRS 216.714.

The amount expended to administer KRS 216.712 and KRS 216.714 shall not exceed the amount collected under KRS 216.712 and KRS 216.714.

(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in subsection (2) of this section.

(4) Interest earned on any moneys in the account shall accrue to the account.

(5) Moneys in the fund are hereby appropriated for the purposes set forth in Sections 2 and 3 of this Act.

SENATE BILL 33 AN ACT RELATING TO THE PURCHASE OF FLAGS BY PUBLIC INSTITUTIONS.

KRS 2.030 IS AMENDED TO READ AS FOLLOWS:

(1) The official state flag of the Commonwealth of Kentucky shall be of navy blue silk, nylon, wool or cotton bunting, or some other suitable material, with the seal of the Commonwealth encircled by a wreath, the lower half of which shall be goldenrod in bloom and the upper half the words "Commonwealth of Kentucky," embroidered, printed, painted, or stamped on the center thereof. The dimensions of the flag may vary, but the length shall be one and nine-tenths (1 9/10) times the width and the diameter of the seal and encirclement shall be approximately two-thirds (2/3) the width of the flag.

(2) The approved official drawings of the state flag shall be permanently retained in the files of the office of the Secretary of State. All state flags for official use of the Commonwealth shall conform as to color and design with these official drawings.

(3) The emblem at the head of a flagstaff used to display the flag of the Commonwealth of Kentucky shall be the Kentucky cardinal in an alert but restful pose, cast in bronze, brass, or other suitable material.

(4) The flying of the state flag at all state buildings and installations including public school buildings, National Guard armories, state parks, and other such buildings is considered proper and is encouraged.

(5) No disrespect should be shown to the flag of the Commonwealth of Kentucky. With the exception of the flag of the United States of America, the flag of the Commonwealth of Kentucky should not be dipped to any person or thing. The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise. The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

(6) All official flags of the Commonwealth of Kentucky purchased by a public institution shall be manufactured in the United States.

KRS 2.040 IS AMENDED TO READ AS FOLLOWS:

(1) The flag of the United States shall be displayed on the main administration buildings of every public institution, and, during school days, either from the flagstaff or, in inclement weather, within the school building of every schoolhouse.

(2) The flag, with staff or flagpole, shall be provided for every schoolhouse.

(3) All official flags of the United States purchased by a public institution shall be manufactured in the United States.

KRS 118.045 IS AMENDED TO READ AS FOLLOWS:

(1) Every voting location on the day upon which any election is held shall, during voting hours, display an American flag of dimensions of reasonable size, which shall be firmly attached to the main entrance of the voting location so that it will be readily visible to the general public.

(2) A precinct sheriff shall attach the American flag to the main entrance of the voting location upon the opening of the polls on the election day and shall remove the same upon the closing of the polls.

(3) The fiscal court of every county shall purchase out of its general fund sufficient American flags for every voting location in that county. **All American flags purchased by the fiscal court shall be manufactured in the United States.**

SENATE BILL 47 AN ACT RELATING TO THE TRANSPORTATION OF AGRICULTURAL CROP PRODUCTS AND LIVESTOCK.

KRS 189.222 IS AMENDED TO READ AS FOLLOWS:

...

(3) Vehicles registered under the provisions of KRS 186.050(4)(b) that are engaged exclusively in the transportation of items listed in paragraphs (a), (b), and (c) of Subsection (2) of this section may exceed the gross weight provisions set forth in Subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

...

(9)(8) Except as otherwise provided in ~~Notwithstanding any other provisions of this chapter,~~ the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If

any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

KRS 189.221 IS AMENDED TO READ AS FOLLOWS:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222 ~~(11)(10)~~ or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

- (1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;
- (2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;
- (3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;
- (4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;
- (5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.
- (6) Notwithstanding the provisions of this section, any truck hauling building materials under KRS 189.2226, or to a road construction project on a highway rated less than the maximum weight provided above, may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit.

SB 151 AN ACT RELATING TO THE RELEASE OF VETERINARIAN RECORDS.

KRS 321.185 IS AMENDED TO READ AS FOLLOWS:

...

(3) (a) A veterinarian shall not violate the confidential relationship between the veterinarian and the veterinarian's client.

(b) A veterinarian shall not release information concerning a client or care of a client's animal, except on the veterinarian's receipt of:

1. A written authorization or other form of waiver executed by the client; or

2. An appropriate court order or subpoena.

(c) A veterinarian who releases information as required under paragraph (b) of this subsection shall not be liable to any person, including the client, for an action resulting from the disclosure.

(d) The privilege provided by this subsection is waived by the client or the owner of an animal treated by the veterinarian to the extent the client or owner places at issue in a civil or criminal proceeding:

1. The nature and extent of the animal's injuries; or
 2. The care and treatment of the animal provided by the veterinarian.
- (e) This subsection shall not apply to:
1. An inspection or investigation conducted by the board or an agent of the board; or
 2. The veterinary reporting requirements and regulatory authority of the Kentucky Horse Racing Commission to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth.
- (4) Veterinarians providing copies of records under this section may charge no more than the actual cost of copying, including reasonable staff time.