

1 AN ACT relating to marine waste disposal.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 235.410 TO 235.440 IS CREATED  
4 TO READ AS FOLLOWS:

5 *A vessel owner shall keep a record, which he or she shall preserve for at least six (6)*  
6 *months, of the dates and times of each occasion that the vessel utilized a sewage*  
7 *pumpout facility. The record shall include the name and contact information for the*  
8 *marina that provided access to the sewage pumpout facility.*

9 ➔Section 2. KRS 235.230 is amended to read as follows:

10 (1) The owner of a boat marina shall keep a record of the name and address of the  
11 person or persons hiring any vessel which is designed or permitted by him to be  
12 operated as a motorboat; the identification number thereof; and the departure time  
13 and date, and the expected time of return. The record shall be preserved for at least  
14 six (6) months.

15 (2) Neither the owner of a boat marina, nor his agent or employee shall permit any  
16 motorboat or any vessel owned or leased by him to be operated as a motorboat to  
17 depart from his premises unless it has been provided, either by the owner or the  
18 renter, with the equipment required pursuant to KRS 235.200 and any rules and  
19 regulations made pursuant thereto, except that the operator need not have the  
20 certificate of registration in his possession.

21 (3) The certificate of registration and number for vessels leased or rented by a marina  
22 may be retained on shore by the owner of the marina or his representative at the  
23 place from which the vessel departs or returns to the possession of the livery or his  
24 representative; provided, however, the operator shall have with him a copy of the  
25 lease or rental agreement signed by the marina owner or an authorized  
26 representative of the marina and by the person leasing or renting the vessel that  
27 contains the vessel's number which appears on the certificate of number and the

1 period of time for which the vessel is leased or rented.

2 (4) ~~[By July 15, 2000, ]~~The owner of a marina shall provide access to sewage pumpout  
3 facilities for the owners of vessels~~[motorboats]~~ with marine toilet facilities. For the  
4 purpose of this subsection a sewage pumpout facility means equipment designed to  
5 receive the discharge of sewage from a marine sanitation device and allow the  
6 disposal of the sewage in a manner that prevents the sewage from entering the  
7 waters of the state. To provide access to sewage pumpout facilities a marina owner  
8 may, by way of illustration and not to limit the options available to a marina owner:

- 9 (a) Build and operate pumpout facilities;
- 10 (b) Contract with another marina owner with pumpout facilities, if the contracting  
11 marinas are not more than eight (8) water miles apart and accessible in a way  
12 that does not require motorboats to be trailered; and
- 13 (c) Contract with a person licensed under KRS 211.972 to provide pumpout  
14 facility service, if the service is available during normal business hours  
15 including holidays and if the service can be provided within a reasonable time  
16 upon request by a motorboat owner.

17 (5) **The owner of a marina shall keep a record, which he or she shall preserve for at**  
18 **least six (6) months, of the owners, operators, and identification numbers for all**  
19 **vessels that were provided access to the marina's sewage pumpout facilities**  
20 **required under subsection (4) of this section and the dates and times when those**  
21 **vessel operators used the facilities.**

22 **(6)** For any period of contracted mooring at a marina longer than twenty-four (24)  
23 hours, the owner of a boat shall provide to the marina owner or his or her agent or  
24 employee the title, or equivalent document, for the boat. The owner of the marina or  
25 his or her agent or employee shall retain the title or a copy of the title in the marina's  
26 records for the period of time, beyond twenty-four (24) hours, for which the marina  
27 is contracted to provide mooring to the boat.

1       ➔Section 3. KRS 235.310 is amended to read as follows:

- 2       (1) The commissioner of the Department of Fish and Wildlife Resources shall  
3       designate officers and employees of the department to enforce the provisions of this  
4       chapter, and these officers when duly authorized by the commissioner shall have the  
5       general powers of a peace officer for the enforcement of other offenses against the  
6       Commonwealth. In enforcing the provisions of this chapter, these officers and all  
7       other peace officers of the Commonwealth and its subdivisions shall have the right  
8       to enter upon all waters of this state, either private or public, for the purpose of  
9       inspecting certificate of registration and boat numbering, but shall only have the  
10      right to stop or enter upon boats on such waters if the officer has a reasonable and  
11      articulable suspicion based upon specific and articulable facts which, taken together  
12      with rational inferences from those facts, demonstrate that a violation of the  
13      Kentucky Revised Statutes or an administrative regulation promulgated under this  
14      chapter has occurred, with any subsequent search of the boat or persons on it being  
15      authorized only if supported by probable cause. The provisions of this section shall  
16      not apply to license inspections under KRS 150.090(5), but only as to those licenses  
17      and items specified in that section. They may arrest on sight, without warrant, any  
18      person detected by them in the act of violating any of the provisions of this chapter.  
19      They shall have the same rights as sheriffs to require aid in arresting, with or  
20      without process, any person found by them violating any of the provisions of this  
21      chapter or other offenses against the Commonwealth.
- 22      (2) The officers designated in subsection (1) of this section shall be authorized to  
23      possess and use radio communication equipment capable of receiving and  
24      transmitting on state police radio frequency. The Department of Kentucky State  
25      Police shall cooperate with the department for the purpose of radio communication  
26      of these officers when any assistance is necessary.
- 27      (3) Once every twenty-four (24) months, the department ~~shall~~~~may~~ conduct~~periodic~~

1 inspections of marine sanitation devices *on each vessel that has a marine toilet,*  
2 *regardless of whether the vessel is required to be registered under this*  
3 *chapter*~~[according to a regular inspection schedule to be determined by the~~  
4 ~~department].~~ To conduct the marine sanitation device inspection, the department  
5 officers and employees may require a *vessel*~~[motorboat]~~ owner to flush a dye  
6 through the marine toilet in the presence of the department officers or employees or  
7 use other appropriate measures to inspect the device.

8 ➔Section 4. KRS 235.990 is amended to read as follows:

- 9 (1) Any person who violates any of the provisions of this chapter or administrative  
10 regulations adopted under this chapter shall be fined not less than fifty dollars (\$50)  
11 nor more than two hundred dollars (\$200). ~~[After July 15, 2000, ]~~Any person who  
12 violates KRS 235.230, *except for subsection (4) of Section 2 of this Act,* shall be  
13 fined not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100)  
14 and each day the violation continues may constitute a separate offense. *Any person*  
15 *who violates subsection (4) of Section 2 of this Act shall be given a notice of*  
16 *violation and thirty (30) days to comply with the requirements of the subsection.*  
17 *If after thirty (30) days, the violation has not been remedied, the person shall be*  
18 *fined one thousand dollars (\$1,000) and one hundred dollars (\$100) each day*  
19 *thereafter that the violation continues.*
- 20 (2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS  
21 Chapter 189A but shall be guilty of a separate offense and subject to a fine of two  
22 hundred dollars (\$200) to two hundred fifty dollars (\$250) for the first offense, a  
23 fine of three hundred fifty dollars (\$350) to five hundred dollars (\$500) for the  
24 second offense, and a fine of six hundred dollars (\$600) to one thousand dollars  
25 (\$1,000) or imprisonment in the county jail for not less than thirty (30) days, or  
26 both, for the third or subsequent offense. Refusal to submit to a breath alcohol  
27 analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.

- 1 (3) (a) A person may, in addition or in lieu of the penalties specified in subsection (1)  
 2 or (5) of this section, be required to take a safe-boating course approved by the  
 3 department or offered by the United States Coast Guard, Coast Guard  
 4 Auxiliary, or U.S. Power Squadron and to present the court a certificate  
 5 documenting successful completion of the course.
- 6 (b) A person shall, in addition to the penalties of subsection (2) of this section, be  
 7 required to take a safe-boating course offered by the department and to present  
 8 the court a certificate documenting successful completion of the course. The  
 9 person attending a class under this paragraph shall pay the department a fee of  
 10 one hundred dollars (\$100) for the costs of materials and instruction before  
 11 receiving a certificate of completion.
- 12 (4) ~~After July 15, 2000,~~ Any person who violates KRS 235.420 ~~or~~ 235.430, or  
 13 Section 1 of this Act shall be fined not less than two hundred fifty dollars (\$250)  
 14 nor more than five hundred dollars (\$500) for the first offense, not less than five  
 15 hundred dollars (\$500) nor more than seven hundred fifty dollars (\$750) for the  
 16 second offense, and not less than seven hundred fifty dollars (\$750) nor more  
 17 than one thousand dollars (\$1,000)~~fifteen dollars (\$15) nor more than one~~  
 18 ~~hundred dollars (\$100). A person who violates KRS 235.420 or 235.430 shall be~~  
 19 ~~fined not less than one hundred dollars (\$100) nor more than three hundred dollars~~  
 20 ~~(\$300) for the second offense, and not less than three hundred dollars (\$300) nor~~  
 21 ~~more than five hundred dollars (\$500)] for the third or any subsequent offense.~~
- 22 (5) Any person failing to obey a citation issued in accordance with KRS 235.315 shall  
 23 be guilty of a separate offense and shall be fined not less than fifty dollars (\$50) nor  
 24 more than two hundred dollars (\$200).
- 25 (6) Any person who makes a false statement regarding a marine boat toilet on the  
 26 application for registration or renewal registration for a motorboat shall be fined  
 27 five~~one~~ hundred dollars (\$500)~~(\$100)~~. This penalty shall be separate from any

- 1 other penalty that may be applicable for violation of this chapter.
- 2 (7) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate,  
3 or in any other manner interferes with any officer in the discharge of his duties,  
4 other than a criminal homicide or an assault against an officer enforcing the  
5 provisions of this chapter, KRS Chapter 150, or the administrative regulations  
6 issued under either of these chapters, shall be guilty of a Class A misdemeanor.
- 7 (8) Any person who commits a criminal homicide or an assault against an officer  
8 enforcing the provisions of this chapter, KRS Chapter 150, or the administrative  
9 regulations issued under either of these chapters shall be subject to the penalties  
10 specified for the offense under KRS Chapter 507 or 508, as appropriate.
- 11 (9) Any person who violates KRS 235.203 shall be fined fifty dollars (\$50).