

1 AN ACT relating to motor vehicle racing.

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

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

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

12 NOW, THEREFORE,

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

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

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

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

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

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

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

24 ***(a) For the first offense:***

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

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

4            (b) For a second or subsequent offense:

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

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

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

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

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

22        (9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars  
23        (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in the county  
24        jail for not more than six (6) months, or both. In the case of a private vehicle, except  
25        as outlined in subsection (11) of this section, all lighting and other equipment used  
26        in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the  
27        county in which the offense occurred.

- 1 (10) If a member of a regular or volunteer fire department, ambulance service, or rescue  
2 squad violates any provisions of subsection (6) of KRS 189.940, he or she shall, in  
3 addition to any other penalty provided under KRS 189.990 or this section, be  
4 immediately dismissed from his or her membership or employment with the fire  
5 department, ambulance service, or rescue squad and shall be disqualified from  
6 being employed by or being a member of any fire department, ambulance service,  
7 or rescue squad in the Commonwealth for a period of three (3) years. Upon  
8 conviction of a second offense he or she shall be permanently barred from  
9 employment or membership in any fire department, ambulance service, rescue  
10 squad, police department, or sheriff's office in the Commonwealth, nor shall he or  
11 she be permitted to operate any public safety vehicle as defined in KRS 189.910.
- 12 (11) (a) Any person who violates KRS 189.950(3) shall be fined one hundred dollars  
13 (\$100) for the first offense, two hundred dollars (\$200) for the second offense,  
14 and one thousand dollars (\$1,000) for each subsequent offense.
- 15 (b) Except as provided in paragraph (a) of this subsection, any person who  
16 violates KRS 189.950 shall be fined not less than one hundred dollars (\$100)  
17 nor more than one thousand dollars (\$1,000) or be imprisoned in the county  
18 jail for not more than thirty (30) days, or both. In the case of a privately  
19 owned vehicle, all lighting and other equipment used or installed in violation  
20 of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in  
21 which the offense occurred.
- 22 (12) Any person who violates any provision of this chapter for which no penalty is  
23 otherwise provided shall, upon conviction, be fined not less than twenty dollars  
24 (\$20) nor more than one hundred dollars (\$100) for each offense, except that no  
25 penalty shall be assessed for a violation of KRS 189.580(1)(b) or (6)(b).
- 26 (13) No producer or processor of natural resources shall allow the transporting of natural  
27 resources over the highways of the Commonwealth in excess of the weight limits

1 without possessing a resource recovery road hauling permit. Violation for hauling  
2 in excess of prescribed limits without possession of a permit or transporting natural  
3 resources over prescribed limits of the resource recovery road hauling permit shall  
4 be not less than five hundred dollars (\$500) nor more than one thousand dollars  
5 (\$1,000) for each violation and shall be deposited in the resource recovery road  
6 fund.

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

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

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

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

- 19 1. The state, if the property was seized by an agency of the state or peace  
20 officer thereof;
- 21 2. The county, if the property was seized by the sheriff or an agency or  
22 peace officer of the county;
- 23 3. The Department of Fish and Wildlife Resources, if the property was  
24 seized by a peace officer of the Department of Fish and Wildlife or was  
25 seized by any other officer for violation of KRS Chapter 150;
- 26 4. The city, if the property was seized by the city or by an agency or peace  
27 officer thereof and the property was delivered to the city property clerk;

- 1           5.    The city (ninety percent (90%) of the proceeds) and the sheriff (ten  
2                    percent (10%) of the proceeds), if the property was seized by the city or  
3                    by an agency or peace officer thereof and the property was delivered to  
4                    the sheriff or the county police;~~[-or]~~
- 5           6.    The state, if the property was seized by any combination of agencies  
6                    listed above; or
- 7           **7.    The Crime Victims Compensation Board established under KRS**  
8                    **49.010, if the property is a motor vehicle seized by any agency or peace**  
9                    **officer thereof for a second or subsequent violation of KRS 189.505.**
- 10          (c)   Subject to the duty to return confiscated firearms and ammunition to innocent  
11                   owners pursuant to this section, all firearms and ammunition confiscated by a  
12                   state or local law enforcement agency, all firearms ordered forfeited by a  
13                   court, and all abandoned firearms and ammunition coming into the custody of  
14                   a state or local law enforcement agency and not retained for official use shall  
15                   be transferred to the Department of Kentucky State Police for disposition as  
16                   provided by KRS 16.220. The transfer shall occur not more than ninety (90)  
17                   days after the abandonment of the firearm or ammunition to the law  
18                   enforcement agency or not more than ninety (90) days after its confiscation,  
19                   unless a court requires the firearm or ammunition for use as evidence, in  
20                   which case it shall be transferred to the Department of Kentucky State Police  
21                   not more than ninety (90) days following the order of forfeiture by the court  
22                   or after the court returns the firearm or ammunition from use as evidence.  
23                   Prior to the sale of any firearm or ammunition, the law enforcement agency  
24                   shall make a bona fide attempt to determine if the firearm or ammunition to be  
25                   sold has been stolen or otherwise unlawfully obtained from an innocent owner  
26                   and return the firearm and ammunition to its lawful innocent owner, unless  
27                   that person is ineligible to purchase a firearm under federal law. This

1 subsection relating to auction of firearms and ammunition shall not apply to  
2 firearms and ammunition auctioned by the Department of Fish and Wildlife  
3 that may be sold to individual purchasers residing in Kentucky who are  
4 eligible under federal law to purchase firearms and ammunition of the type  
5 auctioned.

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

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

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

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

1 criminal use or to money forfeited under subsection (2) of this section.

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

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

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

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

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

11 (6) Before property which has had its identity obscured in violation of KRS 514.120  
12 may be sold or retained for official use as provided in this section, the court shall  
13 cause a serial or other identifying number to be placed thereon, and a record of the  
14 number assigned shall be placed in the court order authorizing the sale or retention  
15 of the property. This number shall be assigned, whenever applicable, in consultation  
16 with the Department of Kentucky State Police and any other state or federal  
17 regulatory agency. The purchaser of the property shall be given a document stating  
18 that the property had been forfeited pursuant to law and that a number, shown on  
19 the document, has been assigned which shall be deemed as compliance of the owner  
20 with KRS 514.120. When property is returned to an owner pursuant to this section  
21 and its identity has been obscured by another person in violation of KRS 514.120,  
22 the court shall provide a document to the owner relieving him or her of liability for  
23 its continued possession. This document shall serve as evidence of compliance with  
24 KRS 514.120 by the owner or any person to whom he or she lawfully disposes of  
25 the property. This section shall not apply to any person after property has been sold  
26 or returned in compliance with this section who violates the provisions of KRS  
27 514.120 with respect to that property.

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