

1 AN ACT relating to public health, making an appropriation therefor, and declaring
2 an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS 211.180 TO 211.190 IS CREATED
5 TO READ AS FOLLOWS:

6 *As used in Sections 1 to 3 of this Act:*

7 *(1) "Agency" means a local health department established in any county in the*
8 *Commonwealth pursuant to the provisions of KRS Chapter 212, including a*
9 *health department in a county containing a city of the first class, a health*
10 *department in a county with a consolidated local government, an urban-county*
11 *health department, an independent district health department, or a district health*
12 *department;*

13 *(2) "Cabinet" means the Cabinet for Health and Family Services;*

14 *(3) "Commissioner" means the commissioner of the Department for Public Health*
15 *within the Cabinet for Health and Family Services;*

16 *(4) "Core public health programs" means all foundational public health programs*
17 *as defined in this section and services that may include but are not limited to the*
18 *Special Supplemental Nutrition Program for Women, Infants, and Children*
19 *(WIC) provided by the federal Food and Nutrition Service, the Health Access*
20 *Nurturing Development Services (HANDS) program established in KRS 211.690,*
21 *and substance use disorder harm reduction services;*

22 *(5) "Department" means the Department for Public Health within the Cabinet for*
23 *Health and Family Services;*

24 *(6) "Foundational public health programs" means those services required by the*
25 *Kentucky Revised Statutes including but not limited to activities and service*
26 *programs that prevent and mitigate disease, protect people from injury, promote*
27 *healthy lifestyles across all environments, promote population health services,*

1 enforce Kentucky administrative regulations, ensure emergency preparedness
2 and response, monitor and mitigate communicable disease, and provide the
3 administrative and organizational infrastructure to deliver services;

4 (7) "Harm reduction services" means a comprehensive set of public health strategies
5 intended to reduce the negative impact of substance use disorders;

6 (8) "Local public health priorities" means services not included in core public health
7 programs as defined in this section that are identified through a needs
8 assessment conducted by the department as priorities of an agency through a
9 process established in administrative regulations; and

10 (9) "Population health services" means the development and support of policies and
11 practices to address, change, and improve health outcomes through community
12 education and partnership development.

13 ➔SECTION 2. A NEW SECTION OF KRS 211.180 TO 211.190 IS CREATED
14 TO READ AS FOLLOWS:

15 (1) In determining the total amount of funds to be allocated for the delivery of
16 foundational public health programs, the statewide base funding level shall be
17 calculated to ensure that:

18 (a) Each county in the Commonwealth that has fifteen thousand (15,000) or
19 fewer residents shall have a minimum of three (3) full-time equivalent
20 foundational public health service providers for foundational public health
21 programs; and

22 (b) Each agency has sufficient funds to employ one (1) additional full-time
23 equivalent foundational public health service provider for each time that
24 one (1) additional person, in ranges of five thousand (5,000) persons, is
25 residing in the county beyond the first fifteen thousand (15,000) persons
26 residing in the county that the agency serves.

27 (2) The funding level for each full-time equivalent foundational public health

1 provider shall be computed by dividing the total amount appropriated for this
2 purpose by the number of full-time equivalent foundational public health service
3 providers mandated by the provisions of this section.

4 (3) Each agency shall be eligible to share in the distribution of funds appropriated
5 for foundational public health programs that meet the following requirements:

6 (a) Employs, or pledges to employ on receipt of funds, a minimum of one (1)
7 full-time equivalent foundational public health service provider pursuant to
8 the requirements of subsection (1) of this section;

9 (b) Provides or ensures the delivery of foundational public health programs
10 within the agency's jurisdiction; and

11 (c) Dedicates funding for full-time equivalent foundational public health
12 providers in one (1) of the following ways:

13 1. By the implementation of the ad valorem public health tax authorized
14 by KRS 212.725 and 212.755 at a rate of at least one and eight-tenths
15 cents (\$0.018), or any higher rate established by the commissioner, per
16 one hundred dollars (\$100) of full value assessed valuation; or

17 2. By the receiving direct funding from the county or counties in which
18 the agency operates in amount that equals what the agency would
19 receive if the ad valorem public health tax had been levied in the
20 county or counties the agency serves at a rate of at least one and eight-
21 tenths cents (\$0.018), or any higher rate established by the
22 commissioner, per one hundred dollars (\$100) of assessed property
23 valuation.

24 (4) An agency that meets the requirements established in subsection (3) of this
25 section shall be entitled to receive an amount equal to the base funding level for
26 each full-time equivalent foundational public health service provider, as
27 evaluated by the Cabinet for Health and Family Services. The base funding level

1 shall be evaluated utilizing the following minimum factors:

2 (a) The amount received by the agency from the ad valorem public health tax
3 referenced in subsection (3)(c) of this section;

4 (b) The statewide average costs of salary for each full-time equivalent
5 foundational public health service provider in the agency;

6 (c) The statewide average costs of benefits for each full-time equivalent
7 foundational public health service provider in each agency;

8 (d) The actual costs of the retirement liability contributions for each full-time
9 equivalent foundational public health service provider in each agency as
10 compared to other agencies throughout the state and whether the agency's
11 equivalents participate in the Kentucky Employees Retirement System or
12 County Employees Retirement System; and

13 (e) The statewide average costs of operating expenses to the agency associated
14 with each full-time equivalent foundational public health service provider.

15 (5) The Cabinet for Health and Family Services shall determine, on or before May 1
16 of each year preceding a biennial budget session of the General Assembly, the
17 estimated amount necessary to fund the salary, benefits, unfunded retirement
18 liability contribution, and operating expenses to the agency associated with each
19 full-time equivalent foundational public health service provider for all agencies
20 as calculated from the previous nine (9) month period.

21 (6) The department shall establish procedures to ensure that core public health
22 programs will be provided or ensured by one (1) or more agencies. The core
23 public health programs, excluding all foundational public health programs, may
24 be provided by another entity; however, the agency shall agree, as funding is
25 available, that it will remain responsible for ensuring that these programs are
26 provided in the event the other entity no longer provides the service.

27 (7) The department shall, within sixty (60) days of the effective date of this Act,

1 promulgate administrative regulations to establish the process and procedures to
2 ensure that core public health programs, foundational public health programs,
3 and local public health priorities are identified and facilitated by one (1) or more
4 agencies in the Commonwealth.

5 (8) The department shall not require agencies to enter additional agreements beyond
6 the provisions of core public health programs. Agencies may enter into
7 contractual agreements with the department outside of programs and services
8 defined in Section 1 of this Act.

9 ➔SECTION 3. A NEW SECTION OF KRS 211.180 TO 211.190 IS CREATED
10 TO READ AS FOLLOWS:

11 (1) As long as core public health programs are funded and implemented, local public
12 health priorities, as defined in Section 1 of this Act, shall meet the following
13 criteria:

14 (a) Demonstrates data-driven needs;

15 (b) Utilizes evidence-based or promising practices;

16 (c) Identifies adequate funding;

17 (d) Demonstrates performance and quality management plans; and

18 (e) Defines a strategy to determine when the service or program is no longer
19 needed.

20 (2) The department shall, within sixty (60) days of the effective date of this Act,
21 promulgate administrative regulations establishing the process to demonstrate
22 that the local health priorities meet the criteria established in this section.

23 ➔Section 4. KRS 194A.050 is amended to read as follows:

24 (1) The secretary shall formulate, promote, establish, and execute policies, plans, and
25 comprehensive programs and shall adopt, administer, and enforce throughout the
26 Commonwealth all applicable state laws and all administrative regulations
27 necessary under applicable state laws to protect, develop, and maintain the health,

1 personal dignity, integrity, and sufficiency of the individual citizens of the
2 Commonwealth and necessary to operate the programs and fulfill the
3 responsibilities vested in the cabinet. The secretary shall promulgate, administer,
4 and enforce those administrative regulations necessary to implement programs
5 mandated by federal law, or to qualify for the receipt of federal funds and necessary
6 to cooperate with other state and federal agencies for the proper administration of
7 the cabinet and its programs.

8 (2) The secretary may utilize the Public Health Services Advisory Council to review
9 and make recommendations on contemplated administrative regulations relating to
10 initiatives of the Department for Public Health. No administrative regulations issued
11 under the authority of the cabinet shall be filed with the Legislative Research
12 Commission unless they are issued under the authority of the secretary, and the
13 secretary shall not delegate that authority.

14 (3) Except as otherwise provided by law, the secretary shall have authority to establish
15 by administrative regulation a schedule of reasonable fees. ~~[, but in no event shall]~~
16 The total fees for permitting and inspection **shall be the total of the operational**
17 **and administrative costs of the programs to the cabinet and to agencies as defined**
18 **in Section 1 of this Act. The fees shall** ~~increase more than five percent (5%) per~~
19 ~~year, to~~ cover the costs of annual inspections of efforts regarding compliance with
20 program standards administered by the cabinet. All fees collected for inspections
21 shall be deposited in the State Treasury and credited to a revolving fund account to
22 be used for administration of those programs of the cabinet. The balance of the
23 account shall lapse to the general fund at the end of each biennium. ~~[Fees shall not~~
24 ~~be charged for investigation of complaints.]~~

25 ➔Section 5. KRS 211.180 is amended to read as follows:

26 (1) The cabinet shall enforce the administrative regulations promulgated by the
27 secretary of the Cabinet for Health and Family Services for the regulation and

1 control of the matters set out below and shall formulate, promote, establish, and
2 execute policies, plans, and comprehensive programs relating to all matters of
3 public health, including but not limited to the following matters:

4 (a) Detection, prevention, and control of communicable diseases, chronic and
5 degenerative diseases, dental diseases and abnormalities, occupational
6 diseases and health hazards peculiar to industry, home accidents and health
7 hazards, animal diseases which are transmissible to man, and other diseases
8 and health hazards that may be controlled;

9 (b) The adoption of regulations specifying the information required in and a
10 minimum time period for reporting a sexually transmitted disease. In adopting
11 the regulations the cabinet shall consider the need for information, protection
12 for the privacy and confidentiality of the patient, and the practical ability of
13 persons and laboratories to report in a reasonable fashion. The cabinet shall
14 require reporting of physician-diagnosed cases of acquired immunodeficiency
15 syndrome based upon diagnostic criteria from the Centers for Disease Control
16 and Prevention of the United States Public Health Service. No later than
17 October 1, 2004, the cabinet shall require reporting of cases of human
18 immunodeficiency virus infection by reporting of the name and other relevant
19 data as requested by the Centers for Disease Control and Prevention and as
20 further specified in KRS 214.645. Nothing in this section shall be construed to
21 prohibit the cabinet from identifying infected patients when and if an effective
22 cure for human immunodeficiency virus infection or any immunosuppression
23 caused by human immunodeficiency virus is found or a treatment which
24 would render a person noninfectious is found, for the purposes of offering or
25 making the cure or treatment known to the patient;

26 (c) The control of insects, rodents, and other vectors of disease; the safe handling
27 of food and food products; the safety of cosmetics; the control of narcotics,

- 1 barbiturates, and other drugs as provided by law; the sanitation of schools,
2 industrial establishments, and other public and semipublic buildings; the
3 sanitation of state and county fairs and other similar public gatherings; the
4 sanitation of public and semipublic recreational areas; the sanitation of public
5 rest rooms, trailer courts, hotels, tourist courts, and other establishments
6 furnishing public sleeping accommodations; the review, approval, or
7 disapproval of plans for construction, modification, or extension of equipment
8 related to food-handling in food-handling establishments; the licensure of
9 hospitals; and the control of such other factors, not assigned by law to another
10 agency, as may be necessary to insure a safe and sanitary environment;
- 11 (d) The construction, installation, and alteration of any on-site sewage disposal
12 system, except for a system with a surface discharge;
- 13 (e) Protection and improvement of the health of expectant mothers, infants,
14 preschool, and school-age children; and
- 15 (f) Protection and improvement of the health of the people through better
16 nutrition.
- 17 (2) The secretary shall have authority to establish by regulation a schedule of
18 reasonable fees, ~~not to exceed costs of the program to the cabinet to cover~~
19 ~~inspector hours, but in no event shall~~ The total fees for permitting and inspection
20 ***shall be the total of the operational and administrative costs of the programs to***
21 ***the cabinet and to agencies as defined in Section 1 of this Act. The fees shall***
22 ***include*** ~~increase more than five percent (5%) per year,~~ travel pursuant to state
23 regulations for travel reimbursement, to cover the costs of inspections of
24 manufacturers, retailers, and distributors of consumer products as defined in the
25 Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et
26 seq. or amendments thereto, and of youth camps for the purpose of determining
27 compliance with the provisions of this section and the regulations adopted by the

1 secretary pursuant thereto. Fees collected by the secretary shall be deposited in the
2 State Treasury and credited to a revolving fund account for the purpose of carrying
3 out the provisions of this section. The balance of the account shall lapse to the
4 general fund at the end of each biennium.

5 (3) Any administrative hearing conducted under authority of this section shall be
6 conducted in accordance with KRS Chapter 13B.

7 ➔Section 6. KRS 211.357 is amended to read as follows:

8 (1) The cabinet shall establish a program to certify persons as installers of on-site
9 sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318
10 or a person who provides written verification from the local health department in
11 the county in which the work was completed that he installed five (5) lateral fields
12 and septic tank systems prior to July 13, 1984, and that these installations had been
13 inspected by a certified inspector and passed inspection, shall be certified
14 automatically.

15 (2) The cabinet shall establish as a part of the certification program referenced in
16 subsection (1) of this section a means of issuing a probationary certification for
17 installers of on-site sewage disposal systems. This probationary certification shall
18 automatically be converted to a full certification at the time that the holder of the
19 probationary certificate has installed five (5) lateral fields and septic tank systems
20 and has provided written verification from the local health department in the county
21 in which the work was completed that these installations have been inspected by a
22 certified inspector and passed the inspection. The cabinet shall issue a full
23 certificate to the holder of the probationary certificate no later than sixty (60) days
24 after receipt of verification. In order to be issued a probationary certification,
25 eligible persons shall certify in writing that they will make installations in
26 accordance with requirements set forth by the Cabinet for Health and Family
27 Services.

- 1 (3) The cabinet may promulgate administrative regulations to establish a fee that shall
2 ~~[not exceed]~~ be the total of the operational and administrative costs of the
3 programs to the cabinet and to agencies as defined in Section 1 of this Act and,
4 ~~but in no event shall the total fees for permitting and inspection increase more than~~
5 ~~five percent (5%) per year,~~ that shall be paid by persons certified as installers,
6 except master plumbers licensed pursuant to KRS Chapter 318.
- 7 (4) The cabinet may revoke or suspend any certification issued pursuant to this section
8 upon proof that the certified person has:
- 9 (a) Knowingly violated the provisions of this chapter or the regulations of the
10 cabinet;
- 11 (b) Practiced fraud or deception in applying for or obtaining a certificate;
- 12 (c) Is incompetent to install on-site sewage disposal systems;
- 13 (d) Permitted the certification to be used directly or indirectly by another to install
14 on-site sewage disposal systems; or
- 15 (e) Is guilty of other unprofessional or dishonorable conduct of a character likely
16 to deceive or defraud the public.
- 17 (5) Upon appeal of any decision to revoke or suspend a certification, an administrative
18 hearing shall be conducted in accordance with KRS Chapter 13B.
- 19 (6) Nothing in this section shall be construed to condone the installation of on-site
20 sewage disposal systems contrary to specifications for these systems established by
21 the cabinet.
- 22 ➔Section 7. KRS 211.976 is amended to read as follows:
- 23 (1) All persons proposing to engage in business for the purposes of this chapter shall
24 file an application for licensing on forms provided by the cabinet with information
25 specifying that waste hauling is restricted to household sewage or sludge only;
26 commercial or industrial sanitary sewage or sludge only; grease trap sewage or
27 sludge only; or combinations of the above. Other information deemed necessary, as

1 well as the required fee, shall accompany the application. The secretary may
2 promulgate administrative regulations to establish a fee schedule that shall ~~not~~
3 ~~exceed the~~ be the total of the operational and administrative costs of the
4 programs to the cabinet and to agencies as defined in Section 1 of this Act, ~~but in~~
5 ~~no event shall the total fees for permitting and inspection increase more than five~~
6 ~~percent (5%) per year~~.

- 7 (2) If the cabinet, after any investigation it deems necessary, finds that the applicant has
8 the qualifications, experience, reputation, and approved site for disposal necessary
9 to perform the service in an acceptable manner and not detrimental to the
10 environment or to public health, it shall issue or cause to be issued a license for the
11 said business. This license is not transferable. The application for license shall be
12 made to the cabinet prior to March 1 of each year, and shall be accompanied by a
13 surety bond tendered by a company registered in the Commonwealth of Kentucky,
14 to indemnify persons for whom service and maintenance work is performed, if
15 faulty, and to guarantee disposal of sewage sludge in an approved manner; or with
16 sureties, form and sufficiency acceptable to the cabinet. The amount of the bond
17 shall be established by administrative regulation promulgated by the cabinet. The
18 cabinet shall be the obligee, and the bond shall be for the benefit and purpose to
19 protect all persons and the environment damaged by faulty workmanship in the
20 servicing or maintaining of sewage pretreatment units, grease traps, or holding
21 tanks, or in the disposal of sewage sludge, and shall guarantee the appearance of the
22 licensee to answer any summons within thirty (30) days of notice to the bonding
23 company of the issuance of summons. Bonds shall be conditioned upon the
24 performance of the services in a workmanlike manner, and in a manner which will
25 not create a public health hazard nor damage the environment.

26 ➔Section 8. KRS 217.125 is amended to read as follows:

- 27 (1) The authority to promulgate regulations for the efficient administration and

1 enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The
2 secretary may make the regulations promulgated under KRS 217.005 to 217.215
3 consistent with those promulgated under the federal act and the Fair Packaging and
4 Labeling Act. Regulations promulgated may require permits to operate and include
5 provisions for regulating the issuance, suspension, and reinstatement of permits.
6 The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is
7 restricted to the Cabinet for Health and Family Services.

8 (2) No person shall operate a food processing establishment, food storage warehouse,
9 salvage distributor, or salvage processing plant without having obtained an annual
10 permit to operate from the cabinet. An application for the permit to operate shall be
11 made to the cabinet upon forms provided by it and shall be accompanied by the
12 required fee as shall be provided by regulation. The secretary shall promulgate
13 administrative regulations to establish a fee schedule not to exceed costs of the
14 program to the cabinet. Fees collected by the cabinet shall be deposited in the State
15 Treasury and credited to a revolving fund account for use by the cabinet in carrying
16 out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the
17 secretary pursuant thereto. The balance of the account shall lapse to the general fund
18 at the end of each biennium.

19 (3) No person shall operate a retail food establishment without having obtained a
20 permit to operate from the cabinet. An application for a permit to operate any retail
21 food establishment shall be made to the cabinet upon forms provided by it and shall
22 contain the information the cabinet may reasonably require.

23 (4) Except as otherwise provided in subsection (11) of this section, each application for
24 a temporary food service establishment or for an annual permit to operate a retail
25 food establishment shall be accompanied by the required fee. The secretary shall
26 promulgate administrative regulations to establish a fee schedule not to exceed costs
27 to the cabinet. ~~but in no event shall~~ The total fees for permitting and inspection

1 shall be the total of the operational and administrative costs of the programs to
2 the cabinet and to agencies as defined in Section 1 of this Act~~[increase more than~~
3 ~~five percent (5%) per year]~~.

4 (5) Except as otherwise provided in subsection (11) of this section, each application for
5 a farmers market temporary food service establishment shall be accompanied by the
6 required fee of at least fifty dollars (\$50). The secretary shall establish a fee
7 schedule by promulgation of administrative regulation. Fees collected by the cabinet
8 shall be used to carry out duties related to farmers market temporary food service
9 establishments, including but not limited to inspections and the issuance of permits.

10 (6) An applicant for a permit to operate a farmers market temporary food service
11 establishment must provide documentation of successful completion of a food
12 safety training program offered by either the state, a local health department, or
13 other entity approved by the cabinet to conduct food safety training. Each
14 certification of food safety training shall expire after a period of twenty-four (24)
15 months from the date of issuance. Permits issued shall be posted in a conspicuous
16 place in the establishment, and a person who has completed the food safety training
17 for farmers market temporary food service establishments shall be present at all
18 times during the operation of the establishment.

19 (7) Upon expiration of a temporary food service establishment permit, any subsequent
20 permits shall not be issued to the same operator to operate at the same location until
21 a period of thirty (30) days has elapsed.

22 (8) Upon receipt of an application for a permit to operate a food processing
23 establishment, food storage warehouse, salvage distributor, or salvage processing
24 plant or a retail food establishment accompanied by the required fee, the cabinet
25 shall issue a permit if the establishment meets the requirements of KRS 217.005 to
26 217.215 and regulations adopted by the cabinet. Retail food establishments holding
27 a valid and effective permit on January 1, 1973, even though not fully meeting the

- 1 construction requirements of KRS 217.005 to 217.215 and the regulations adopted
2 pursuant thereto, may continue to be eligible for permit renewal if in good repair
3 and capable of being maintained in a safe and sanitary manner.
- 4 (9) Permits shall not be issued to operate a temporary food service establishment and a
5 farmers market temporary food service establishment simultaneously at the same
6 location and by the same operator.
- 7 (10) In all instances of permit issuance for either a temporary food service establishment
8 permit or a farmers market temporary food service establishment permit, any
9 subsequent permits shall not be issued until a period of thirty (30) days has elapsed.
- 10 (11) Private, parochial, and public school cafeterias or lunchroom facilities through the
11 twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for
12 Health and Family Services or Department of Corrections shall be exempt from the
13 payment of fees, but shall comply with all other provisions of KRS 217.005 to
14 217.215 and the state retail food establishment code. For this subsection, the term
15 "charitable food kitchens" means a not-for-profit, benevolent food service
16 establishment where more than one-half (1/2) of the employees are volunteers.
- 17 (12) Each annual permit to operate a food processing establishment, food storage
18 warehouse, salvage distributor, or salvage processing plant or a retail food
19 establishment, unless previously suspended or revoked, shall expire on December
20 31 following its date of issuance, and be renewable annually upon application
21 accompanied by the required fee, except as otherwise provided in subsection (11) of
22 this section, and if the establishment is in compliance with KRS 217.005 to 217.215
23 and regulations of the cabinet.
- 24 (13) Each permit to operate a food processing establishment, food storage warehouse,
25 salvage distributor, salvage processing plant, or a retail food establishment shall be
26 issued only for the premises and person named in the application and shall not be
27 transferable. Permits issued shall be posted in a conspicuous place in the

1 establishment.

2 ➔Section 9. KRS 217.811 is amended to read as follows:

3 The cabinet shall promulgate administrative regulations to establish a fee ~~[not to exceed~~
4 ~~the]~~*that shall be the total of the operational and administrative costs of the programs*
5 to the cabinet *and to agencies as defined in Section 1 of this Act, and*~~[of the program,~~
6 ~~but in no event shall an increase be more than five percent (5%) per year,]~~ that shall be
7 paid with each application for permit to operate a vending machine company for each
8 vending machine commissary plus a fee for the total number of vending machines
9 operated by the applicant. Vending machines dispensing only bottled or canned soft
10 drinks; prepackaged nonpotentially hazardous food; chewing gum, nuts, and/or candies
11 shall be exempt from the permit and fee requirements of KRS 217.808 to 217.812.

12 ➔Section 10. Whereas the continuing increase in health care costs is a burden on
13 Kentucky agencies and consumers, an emergency is declared to exist, and this Act takes
14 effect upon its passage and approval by the Governor or upon otherwise becoming law.