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## State Endangered Species Act Statutes:

*Kentucky*



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**State Endangered Species Act Statutes: Kentucky**

**Kentucky Rare Plant Recognition Act §§ 146.600 – 146.619**

*Current through Ch. 128 of the 2020 Regular Session*

**§ 146.600 Legislative findings.**

The General Assembly finds and declares that it is the policy of the Commonwealth to recognize endangered and threatened species of plants for human enjoyment, for scientific purposes, and to ensure their perpetuation as viable components of their ecosystems for the benefit of the people of Kentucky. It is the policy of the General Assembly that all plants covered by KRS 146.600 to 146.619 are property of the landowner, and that KRS 146.600 to 146.619 shall not impede the development or use of public or private lands.

**§ 146.605 Definitions for KRS 146.600 to 146.619.**

As used in KRS 146.600 to 146.619:

- (1) "Office" means the Office of Kentucky Nature Preserves, created by KRS 146.430;
- (2) "Endangered species" means any species of plant that is in danger of extirpation throughout all or a significant portion of its range within the Commonwealth, or any plant species determined to be an "endangered species" pursuant to the Endangered Species Act;
- (3) "Endangered Species Act" means the Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), as amended;
- (4) "Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof;
- (5) "Species" includes any species, subspecies, or variety of plant;
- (6) "Threatened species" means any species of plant likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the state, or any species of plant determined to be a "threatened species" pursuant to the Endangered Species Act; and
- (7) "Cabinet" means the Energy and Environment Cabinet.



**§ 146.610 Duties of Office of Kentucky Nature Preserves -- Authority for administrative regulations -- Criteria for designation of plants as endangered or threatened -- Plant lists -- Quadrennial report.**

(1) The office may conduct investigations, with the permission of the landowner, on any species of plants indigenous to the Commonwealth necessary to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data, and to determine protective measures and requirements necessary for its survival.

(2) (a) Any plant species identified as endangered or threatened by the Endangered Species Act shall be automatically and immediately considered in a similar category under KRS 146.600 to 146.619. The office may promulgate administrative regulations, upon recommendation of the office, identifying any other species of plant within the state as an endangered or threatened species as a result of any one (1) of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, recreational, scientific, educational, or private purposes;
3. Disease, predation, or vandalism;
4. The inadequacy of existing regulatory mechanisms affecting the continued existence within the state; or
5. Other factors affecting its continued existence within the state.

(b) The cabinet may, upon recommendation of the office, promulgate administrative regulations setting forth criteria for identifying and designating species of plants native to Kentucky which are in danger of extirpation within the Commonwealth or threatened with becoming endangered in the Commonwealth. The cabinet may, upon recommendation of the office, promulgate administrative regulations that identify species that it determines to be endangered or threatened. These lists shall identify the common and scientific names of each species. The lists shall include all plant species native to Kentucky which are listed as endangered or threatened on the "United States List of Endangered and Threatened Plants" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. secs. 1531-1543, as amended. The lists may also include species listed in the appendices of the "Convention on International Trade in Endangered Species," signed March 3, 1973, as Ex. Doc. H, 93rd Congress, 1st Session. Further, the office may provide for public education purposes lists of plant species which may become threatened in the future through habitat loss, commercial exploitation, or other means, or which are presumed to be extirpated within the Commonwealth. All lists shall be updated at least every four (4) years.

(3) Locational and population health information relating to endangered or threatened and other plant species shall be kept in the office's natural heritage database. Information to be considered when adopting, amending, or rescinding endangered

or threatened plant species lists as required in this section shall be recorded in the natural heritage database prior to use in determining the status of a plant species.



(4) The office shall present to the Governor and the General Assembly a report on or before October 1 every four (4) years on the conditions and needs of the Commonwealth's endangered or threatened plant species.

(5) In carrying out programs authorized by KRS 146.600 to 146.619, the office may enter into agreements or contracts with federal agencies, other states, agencies or political subdivisions of the Commonwealth, or with individuals or private organizations for administration and management of any program established under KRS 146.600 to 146.619 or utilized for the protection of endangered or threatened plant species.

**§ 146.615 Lists not to impede development or use of public or private lands.**

The lists promulgated under KRS 146.610 shall not serve to impede the development or use of public or private lands, including, but not limited to, the normal and accepted operations of agriculture; forestry; mining; development, construction, and maintenance of oil and gas resources and appurtenances; development, construction, and maintenance of utility facilities and appurtenances; construction and maintenance of pipeline rights-of-way; construction activities; equine activities; transportation; or development activities.

**§ 146.619 Short title for KRS 146.600 to 146.619.**

KRS 146.600 to 146.619 may be cited as the "Kentucky Rare Plant Recognition Act."

**Fish and Wildlife Resources §§ 150.180, 150.183, 150.260,  
150.280, 150.990**

**§ 150.180 Buying, selling, or transporting protected wildlife, mussels and fishes, raw fur, or processed wildlife**

(1) Except as otherwise provided for in this chapter, and subject to regulations adopted under this chapter, no person, for himself or as the agent or employee of another shall buy, or sell, or attempt to buy, or sell, barter, exchange, or trade, or have in possession for the purpose of selling, bartering, or trading any protected wildlife or part thereof, raw fur or processed wildlife, no matter where or when caught or killed, whether caught or killed in this state or in any other state or other country.

(2) Mussels and fishes, other than sport fishes as designated by departmental regulations, and all fishes, regardless of species, raised by licensed propagation permittees may be bought, sold, and transported, if in legal possession.

(3) Raw furs, if in legal possession, may be sold, transported, or shipped, by a licensed trapper or licensed hunter to a licensed fur buyer (resident or nonresident), and by a licensed fur buyer to a licensed fur processor or to another fur buyer if in legal possession. A fur processor may hold raw furs or sell to another licensed fur processor at any time.



(4) Subject to regulations adopted under this chapter, a person who has been issued a license under this chapter and who has the license on his person may transport anywhere as a part of his personal baggage any protected wildlife legally taken by him under such license, not in excess of the number that the law or regulation permits him to have in possession at any one (1) time.

(5) A person who has legally taken any protected wildlife in another state and who has in his possession the license which authorizes such taking may, if the same be dead, transport the same in this state, as part of his personal baggage at any time during the open season for the particular species in the state in which taken or within ten (10) days after the close of such season. Any person may ship dead game or dead fish so taken subject to the provisions of the laws of the state in which the same was taken and the laws and regulations of the United States relating thereto.

(6) No person shall import or transport into the State of Kentucky or receive shipment in the state from without the state, any live fish or wildlife without first procuring from the department a written fish transportation permit or wildlife transportation permit. If it is determined upon inspection that such fish or wildlife would not constitute a menace to the state and are free from disease and other undesirable physical characteristics, the commissioner shall issue a permit for a fee to be determined by the Fish and Wildlife Commission by administrative regulation, pursuant to KRS Chapter 13A. A fish transportation permit shall be valid for one (1) year from the date of issuance, and a wildlife transportation permit shall be valid for specific dates as indicated on the permit.

(7) No person may at any time stock any species of fish secured from any source into the public waters of the Commonwealth without first securing a permit from the commissioner.

(8) This section shall not in any way interfere with the transportation of any fish or wildlife by authorized personnel of the department.

(9) Federal and state regulations shall govern the transportation of all migratory wild birds.

#### **§ 150.183 Importing, transporting or possessing endangered species of wildlife**

(1) No person shall import, transport, possess for resale or sell any endangered species of wildlife, the hides, skins, or other parts thereof, or any article made in whole or in part from the skin, hide, or other parts of any species of wildlife designated as an endangered species by regulation promulgated by the Department of Fish and Wildlife Resources except as provided in subsection (3) of this section. As used in this section, the term "endangered species" means any species of wildlife seriously threatened with worldwide extinction or in danger of being extirpated from the Commonwealth of Kentucky.

(2) The regulation or regulations promulgated pursuant to subsection (1) of this section shall include, but not be limited to, all species of wildlife designated as endangered species by the United States Secretary of the Interior on January 1, 1973.

(3) The Department of Fish and Wildlife Resources may permit, under such terms and conditions as it may prescribe, the importation, transportation, possession, or sale of any species of wildlife otherwise prohibited pursuant to this section for zoological,



educational, or scientific purposes, and for the propagation of such wildlife in captivity for preservation purposes except as otherwise prohibited by law.

### **§ 150.260 Wildlife restoration in cooperation with federal government**

Kentucky assents to the provisions of acts of Congress which provide that the United States shall aid the states in wildlife restoration projects, and for other purposes, as approved September 2, 1937, and August 9, 1950, as well as other acts related to wildlife. The department shall supervise and/or carry out such programs as may be necessary to the establishment and conduct of cooperative wildlife restoration projects in compliance with said acts and with rules and regulations promulgated thereunder by the Secretary of the Interior or other secretaries dealing with matters related to wildlife. No game and fish funds accruing to the department shall be diverted to any objective other than the purposes as outlined in this chapter and more particularly defined in KRS 150.015.

### **§ 150.280 Propagation and holding of protected wildlife; permits; revocation for violation of state or federal law**

(1) Except as provided by administrative regulation, a person shall not propagate or hold protected wildlife without obtaining a permit to do so from the department. The department shall promulgate administrative regulations governing all such activity and prescribing permit fees. Any permit issued pursuant to this section may be revoked for a violation by the holder thereof of any of the provisions of this chapter, any administrative regulation of the department, or hunting, fishing, or wildlife laws of the federal government.

(2) The department shall by administrative regulation identify species of wildlife potentially damaging to native ecosystems and shall prohibit the transporting or holding of these wildlife.

### **§ 150.990 Penalties**

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) (a) Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license or, if that person is license-exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.

(b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license or, if that person is license-exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the



privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.235(1), 150.280, 150.320, 150.330(2), 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, or 150.722(2) or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), 150.235(2), (3), or (4), or 150.363 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent



offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or KRS 150.450(2) or (3) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he or she shall forfeit his license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of KRS 150.092(4) shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations promulgated under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license or, if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties





prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.

(16) (a) Any person who knowingly violates KRS 150.361 shall for a first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both.

(b) Any person who knowingly violates KRS 150.361 shall for a second or subsequent offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) or be imprisoned in the county jail for not more than six (6) months, or both.

(c) In addition to the penalties specified in paragraphs (a), (b), and (d) of this subsection, a person knowingly violating KRS 150.361 shall forfeit his or her hunting license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of not less than one (1) nor more than three (3) years.

(d) In addition to the penalties specified in paragraphs (a), (b), and (c) of this subsection any person knowingly violating KRS 150.361 shall be liable to the department in an amount not to exceed the greater of the replacement value of any wildlife killed or wounded in violation of KRS 150.361 or double the amount of the monetary gain from knowingly violating KRS 150.361.

(e) Wildlife replacement costs or other costs specified in paragraph (d) of this subsection shall be ordered paid directly to the department. The court shall not direct that the replacement costs be paid through the circuit clerk.

(17) Any person convicted of violating KRS 150.186 shall be guilty of a Class A misdemeanor and shall, whether licensed or license-exempt, forfeit his or her right to hunt, fish, trap, or be licensed as a commercial guide for a period of ten (10) years.

