

1 AN ACT relating to air ambulance services.

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

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 *(1) A health benefit plan issued or renewed on or after the effective date of this Act*
6 *shall:*

7 *(a) Provide coverage for out-of-network health care services performed by a*
8 *nonparticipating air ambulance provider that is equal to the average in-*
9 *network rate for health care services performed by a participating air*
10 *ambulance provider of the insurer issuing the health benefit plan; and*

11 *(b) Include a program for payment of out-of-network air ambulance bills*
12 *submitted under this section. Under the program, the insurer offering the*
13 *health benefit plan may elect:*

14 *1. To pay out-of-network air ambulance provider bills as submitted; or*

15 *2. To use the out-of-network air ambulance provider mediation process*
16 *described in subsection (4) of this section;*

17 *This paragraph shall not preclude an insurer and a facility-based out-of-*
18 *network air ambulance provider from agreeing to a separate payment*
19 *arrangement.*

20 *(2) An insurer issuing a health benefit plan shall not use the average of its in-*
21 *network rates for air ambulance services to decrease current or future*
22 *contractual rates between the insurer and an air ambulance provider.*

23 *(3) For purposes of settling a claim made by the covered person for air ambulance*
24 *services, when an insurer makes a payment that is in compliance with this*
25 *section, it shall be deemed to be full and final payment by the covered person for*
26 *the out-of-network air ambulance services.*

27 *(4) (a) An insurer issuing health benefit plans shall establish an air ambulance*

1 provider mediation process for payment of out-of-network air ambulance
2 provider bills. The process shall be established in accordance with
3 mediation standards recognized by the department.

4 **(b) The terms of the insurer's air ambulance provider mediation process shall**
5 **be disclosed in accordance with KRS 304.17A-505.**

6 **(c) Compliance with the mediation process is not required if:**

7 **1. The insurer and the out-of-network air ambulance provider agree to a**
8 **separate payment arrangement; or**

9 **2. The covered person agrees to accept and pay the out-of-network air**
10 **ambulance provider's charges for the out-of-network services.**

11 **(d) An insurer shall maintain records of all requests for mediation and**
12 **completed mediations under this subsection for one (1) year and, upon**
13 **request of the commissioner, submit a report containing this information to,**
14 **and in a format specified by, the commissioner.**

15 **(5) The rights and remedies provided by this section to covered persons are in**
16 **addition to, and shall not preempt, any other rights and remedies available to**
17 **covered persons under state or federal law.**

18 **(6) The department shall report any violation of Section 2 of this Act by a facility**
19 **required to be licensed under KRS Chapter 216B to the Cabinet for Health and**
20 **Family Services for the imposition of penalties under Section 4 of this Act.**

21 **(7) At least quarterly, the department shall publish on its Web site information**
22 **regarding the participating provider network status of each air ambulance service**
23 **provider authorized to operate in Kentucky.**

24 **(8) Nothing in this section or in Section 2 of this Act shall be construed to:**

25 **(a) Preclude a covered person from agreeing to accept and pay the charges for**
26 **the out-of-network air ambulance services and not accessing his or her**
27 **health benefit plan's out-of-network air ambulance payment program set**

1 forth in this section; or

2 (b) Regulate an out-of-network air ambulance provider's ability to charge
 3 certain fees for services or to charge any amount of fee for services provided
 4 to a covered person by the out-of-network air ambulance provider.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 6 READ AS FOLLOWS:

7 (1) As used in this section:

8 (a) The following have the same meaning as in KRS 304.17A-005:

9 1. "Health benefit plan"; and

10 2. "Health care provider" or "provider"; and

11 (b) "Covered person" has the same meaning as in KRS 304.17A-500.

12 (2) Except as otherwise provided under this section, before a provider arranges for
 13 air ambulance services for an individual the provider knows to be a covered
 14 person, the provider shall request prior authorization from the covered person's
 15 health benefit plan for the air ambulance services to be provided to the covered
 16 person. If the provider is unable to request or obtain prior authorization from the
 17 covered person's health benefit plan, the provider shall supply to the covered
 18 person or his or her authorized representative an out-of-network services written
 19 disclosure. The disclosure shall state that:

20 (a) Air ambulance providers may be called upon to render care to the covered
 21 person during the course of treatment;

22 (b) These air ambulance providers may be nonparticipating providers;

23 (c) If these air ambulance providers are nonparticipating providers, the air
 24 ambulance services will be provided on an out-of-network basis;

25 (d) A description of the range of charges for the out-of-network air ambulance
 26 services for which the covered person may be responsible;

27 (e) A notification that the covered person or his or her authorized

1 representative may:

2 1. Agree to accept and pay the charges for the out-of-network air
3 ambulance services;

4 2. Contact the covered person's health benefit plan for additional
5 assistance; or

6 3. Rely on other rights and remedies that may be available under state or
7 federal law; and

8 (f) The covered person or his or her authorized representative may obtain a list
9 of participating air ambulance providers from the covered person's health
10 benefit plan and may request that those participating air ambulance
11 providers be accessed by the health care provider.

12 (3) (a) Before air ambulance services are utilized for the covered person, the
13 provider shall:

14 1. Supply the written disclosure required by this section; and

15 2. Obtain the covered person's or his or her authorized representative's
16 signature on the disclosure acknowledging receipt of the disclosure
17 document before the air ambulance services were accessed.

18 (b) If the provider is unable to supply the written disclosure or obtain the
19 signature required under this subsection, the provider shall document the
20 reason, which may include the health and safety of the patient. The
21 provider's documentation under this paragraph shall satisfy the
22 requirements of this section.

23 (4) Nothing in this section or in Section 1 of this Act shall be construed to:

24 (a) Preclude a covered person from agreeing to accept and pay the charges for
25 the out-of-network air ambulance services and not accessing his or her
26 health benefit plan's out-of-network air ambulance payment program set
27 forth in this section; or

1 **(b) Regulate an out-of-network air ambulance provider's ability to charge**
 2 **certain fees for services or to charge any amount of fee for services provided**
 3 **to a covered person by the out-of-network air ambulance provider.**

4 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO
 5 READ AS FOLLOWS:

6 **(1) An air ambulance provider, or an agent of an air ambulance provider, shall not**
 7 **sell, solicit, or negotiate a subscription agreement or contract relating to services**
 8 **or the billing of services provided by an air ambulance provider.**

9 **(2) An air ambulance provider, or an agent of an air ambulance provider, that**
 10 **violates this section shall be subject to any available penalties under this chapter.**
 11 **In addition, the air ambulance provider may be fined by the commissioner of the**
 12 **Department of Insurance as an insurer under Section 7 of this Act.**

13 ➔Section 4. KRS 216B.990 is amended to read as follows:

14 (1) Any person who, in willful violation of this chapter, operates a health facility or
 15 abortion facility without first obtaining a license or continues to operate a health
 16 facility or abortion facility after a final decision suspending or revoking a license
 17 shall be fined not less than five hundred dollars (\$500) nor more than ten thousand
 18 dollars (\$10,000) for each violation.

19 (2) Any person who, in willful violation of this chapter, acquires major medical
 20 equipment, establishes a health facility, or obligates a capital expenditure without
 21 first obtaining a certificate of need, or after the applicable certificate of need has
 22 been withdrawn, shall be fined one percent (1%) of the capital expenditure involved
 23 but not less than five hundred dollars (\$500) for each violation.

24 (3) Any hospital acting by or through its agents or employees which violates any
 25 provision of KRS 216B.400 shall be punished by a fine of not less than one hundred
 26 dollars (\$100) nor more than five hundred dollars (\$500).

27 (4) Any health facility which willfully violates KRS 216B.250 shall be fined one

1 hundred dollars (\$100) per day for failure to post required notices and one hundred
2 dollars (\$100) per instance for willfully failing to provide an itemized statement
3 within the required time frames.

4 (5) In addition to the civil penalties established under KRS 216B.306(1) and (4), any
5 person who advertises, solicits boarders, or operates a boarding home without first
6 obtaining a registration as required by KRS 216B.305 and any person who aids or
7 abets the operation of a boarding home that is not registered shall be imprisoned for
8 no more than twelve (12) months.

9 (6) Any person or entity establishing, managing, or operating an abortion facility or
10 conducting the business of an abortion facility which otherwise violates any
11 provision of this chapter or any administrative regulation promulgated thereunder
12 regarding abortion facilities shall be subject to revocation or suspension of the
13 license of the abortion facility. In addition, any violation of any provision of this
14 chapter regarding abortion facilities or any administrative regulation related thereto
15 by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or
16 by careless, negligent, or incautious disregard for the statute or administrative
17 regulation, either by persons acting individually or in concert with others, shall
18 constitute a violation and shall be punishable by a fine not to exceed one thousand
19 dollars (\$1,000) for each offense. Each day of continuing violation shall be
20 considered a separate offense. The venue for prosecution of the violation shall be in
21 any county of the state in which the violation, or any portion thereof, occurred.

22 (7) Any hospital acting by or through its agents or employees that violates any
23 provision of KRS 216B.150 shall be punished by a fine of not less than one hundred
24 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

25 **(8) Any facility required to be licensed pursuant to this chapter acting by or through**
26 **its agents or employees that violates Section 2 of this Act shall be punished by a**
27 **fine of not less than one hundred dollars (\$100) nor more than five hundred**

1 **dollars (\$500) for each violation.**

2 ➔Section 5. KRS 304.17A-254 is amended to read as follows:

3 An insurer that offers a health benefit plan that is not a managed care plan but provides
4 financial incentives for a covered person to access a network of providers shall:

5 (1) Notify the covered person, in writing, of the availability of a printed document, in a
6 manner consistent with KRS 304.14-420 to 304.14-450, containing the following
7 information at the time of enrollment and upon request:

8 (a) A current directory of the in-network providers from which the covered
9 person may access covered services at a financially beneficial rate. The
10 directory shall, at a minimum, provide the name, type of provider,
11 professional office address, telephone number, and specialty designations of
12 the network provider, if any; and

13 (b) In addition to making the information available in a printed document, an
14 insurer may also make the information available in an accessible electronic
15 format;

16 (2) **Ensure**~~Assure~~ that contracts with the providers in the network contain:

17 **(a)** A hold harmless agreement under which the covered person will not be
18 balanced billed by the in-network provider except for deductibles, co-pays,
19 coinsurance amounts, and noncovered benefits; **and**

20 **(b) A clause requiring the provider to comply with the requirements of Section**
21 **2 of this Act;**

22 (3) File with the department a copy of the directory required under subsection (1) of
23 this section;

24 (4) Have a process for the selection of health care providers who will be on the insurer's
25 list of participating providers, with written policies and procedures for review and
26 approval used by the insurer. The insurer shall establish minimum professional
27 requirements for participating health care providers. An insurer may not

1 discriminate against a provider solely on the basis of the provider's license by the
2 state;

3 (5) Not contract with a health care provider to limit the provider's disclosure to a
4 covered person, or to another person on behalf of a covered person, of any
5 information relating to the covered person's medical condition or treatment options;

6 (6) Not penalize a health care provider, or terminate a health care provider's contract
7 with the insurer, because the provider discusses medically necessary or appropriate
8 care with a covered person or another person on behalf of a covered person. The
9 health care provider may:

10 (a) Not be prohibited by the insurer from discussing all treatment options with the
11 covered person; and

12 (b) Disclose to the covered person or to another person on behalf of a covered
13 person other information determined by the health care provider to be in the
14 best interests of the covered person;

15 (7) Include in any agreements it enters into with providers for the provision of health
16 care services a clause stating that the insurer will, upon request of a health care
17 provider, provide or make available to a health care provider, when contracting or
18 renewing an existing contract with such provider, the payment or fee schedules or
19 other information sufficient to enable the health care provider to determine the
20 manner and amount of payments under the contract for the health care provider's
21 services prior to the final execution or renewal of the contract and shall provide any
22 change in such schedules at least ninety (90) days prior to the effective date of the
23 amendment pursuant to KRS 304.17A-577;

24 (8) Establish a policy governing the removal of and withdrawal by health care providers
25 from the provider network that includes the following:

26 (a) The insurer shall inform a participating health care provider of the insurer's
27 removal and withdrawal policy at the time the insurer contracts with the health

1 care provider to participate in the provider network, and when changed
2 thereafter;

3 (b) If a participating health care provider's participation will be terminated or
4 withdrawn prior to the date of the termination of the contract as a result of a
5 professional review action, the insurer and participating health care provider
6 shall comply with the standards in 42 U.S.C. sec. 11112; and

7 (c) If the insurer finds that a health care provider represents an imminent danger
8 to an individual patient or to the public health, safety, or welfare, the medical
9 director shall promptly notify the appropriate professional state licensing
10 board; and

11 (9) Meet all requirements provided under KRS 304.17A-600 to 304.17A-633 and KRS
12 304.17A-700 to 304.17A-730.

13 ➔Section 6. KRS 304.17A-527 is amended to read as follows:

14 (1) A managed care plan shall file with the commissioner sample copies of any
15 agreements it enters into with providers for the provision of health care services.
16 The commissioner shall promulgate administrative regulations prescribing the
17 manner and form of the filings required. The agreements shall include the
18 following:

19 (a) A hold harmless clause that states that the provider may not, under any
20 circumstance, including:

21 1. Nonpayment of moneys due the providers by the managed care plan,

22 2. Insolvency of the managed care plan, or

23 3. Breach of the agreement,

24 bill, charge, collect a deposit, seek compensation, remuneration, or
25 reimbursement from, or have any recourse against the subscriber, dependent
26 of subscriber, enrollee, or any persons acting on their behalf, for services
27 provided in accordance with the provider agreement. This provision shall not

- 1 prohibit collection of deductible amounts, copayment amounts, coinsurance
2 amounts, and amounts for noncovered services;
- 3 (b) A continuity of care clause that states that if an agreement between the
4 provider and the managed care plan is terminated for any reason, other than a
5 quality of care issue or fraud, the insurer shall continue to provide services
6 and the plan shall continue to reimburse the provider in accordance with the
7 agreement until the subscriber, dependent of the subscriber, or the enrollee is
8 discharged from an inpatient facility, or the active course of treatment is
9 completed, whichever time is greater, and in the case of a pregnant woman,
10 services shall continue to be provided through the end of the post-partum
11 period if the pregnant woman is in her fourth or later month of pregnancy at
12 the time the agreement is terminated;
- 13 (c) A survivorship clause that states the hold harmless clause and continuity of
14 care clause shall survive the termination of the agreement between the
15 provider and the managed care plan;
- 16 (d) A clause stating that the insurer issuing a managed care plan will, upon
17 request of a participating provider, provide or make available to a
18 participating provider, when contracting or renewing an existing contract with
19 such provider, the payment or fee schedules or other information sufficient to
20 enable the provider to determine the manner and amount of payments under
21 the contract for the provider's services prior to the final execution or renewal
22 of the contract and shall provide any change in such schedules at least ninety
23 (90) days prior to the effective date of the amendment pursuant to KRS
24 304.17A-577;~~and~~
- 25 (e) A clause requiring that if a provider enters into any subcontract agreement
26 with another provider to provide their licensed health care services to the
27 subscriber, dependent of the subscriber, or enrollee of a managed care plan

1 where the subcontracted provider will bill the managed care plan or subscriber
2 or enrollee directly for the subcontracted services, the subcontract agreement
3 must meet all requirements of this subtitle and that all such subcontract
4 agreements shall be filed with the commissioner in accordance with this
5 subsection; ***and***

6 ***(f) A clause requiring the provider to comply with Section 2 of this Act.***

7 (2) An insurer that offers a health benefit plan that enters into any risk-sharing
8 arrangement or subcontract agreement shall file a copy of the arrangement with the
9 commissioner. The insurer shall also file the following information regarding the
10 risk-sharing arrangement:

11 (a) The number of enrollees affected by the risk-sharing arrangement;

12 (b) The health care services to be provided to an enrollee under the risk-sharing
13 arrangement;

14 (c) The nature of the financial risk to be shared between the insurer and entity or
15 provider, including but not limited to the method of compensation;

16 (d) Any administrative functions delegated by the insurer to the entity or provider.
17 The insurer shall describe a plan to ensure that the entity or provider will
18 comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated
19 administrative functions; and

20 (e) The insurer's oversight and compliance plan regarding the standards and
21 method of review.

22 (3) Nothing in this section shall be construed as requiring an insurer to submit the
23 actual financial information agreed to between the insurer and the entity or provider.
24 The commissioner shall have access to a specific risk sharing arrangement with an
25 entity or provider upon request to the insurer. Financial information obtained by the
26 department shall be considered to be a trade secret and shall not be subject to KRS
27 61.872 to 61.884.

1 ➔Section 7. KRS 304.99-020 is amended to read as follows:

2 (1) For any violation of this code where the commissioner has the power to revoke or
3 suspend a license or certificate of authority, the commissioner may in lieu thereof or
4 in addition to such revocation or suspension impose a civil penalty against the
5 violator in the case of an insurer, a fraternal benefit society, nonprofit hospital,
6 medical-surgical, dental, and health service corporation, or health maintenance
7 organization of not more than ten thousand dollars (\$10,000) per violation; in the
8 case of an agent, surplus lines broker, rental vehicle agent or managing employee,
9 specialty credit producer or managing employee, or reinsurance intermediary broker
10 or manager of not more than one thousand dollars (\$1,000) per violation; in the case
11 of an adjuster, administrator, life settlement broker, life settlement provider, or
12 consultant of not more than two thousand dollars (\$2,000) per violation.

13 (2) **For a violation of Section 3 of this Act, the commissioner may impose a civil**
14 **penalty against the air ambulance provider of not more than ten thousand dollars**
15 **(\$10,000) per violation.**

16 (3) ~~Any~~~~Such~~ civil penalty **permitted by this section** may be recovered in an action
17 brought ~~thereon~~ in the name of the Commonwealth of Kentucky in any court of
18 appropriate jurisdiction.

19 (4)~~(3)~~ In any court action with respect to a civil penalty **permitted by subsection (1)**
20 **of this section**, the court may review the penalty as to both liability and
21 reasonableness of amount.

22 ➔Section 8. KRS 311A.060 is amended to read as follows:

23 (1) (a) If it is determined that an entity or a member of emergency medical services
24 personnel regulated, licensed, or certified by the board has violated a statute,
25 administrative regulation, protocol, or practice standard relating to serving as
26 an entity or a member of emergency medical services personnel regulated by
27 the board, the office of the board may impose any of the sanctions provided in

1 subsection (2) of this section. Any party to the complaint shall have the right
2 to propose findings of fact and conclusions of law, and to recommend
3 sanctions.

4 (b) For the purposes of this subsection, violation of " a statute, administrative
5 regulation, protocol, or practice standard relating to serving as an entity
6 regulated by the board, a paramedic, first responder, or emergency medical
7 technician" shall include violation of KRS 304.39-215 and conduct that is
8 subject to the penalties under KRS 304.99-060(4) or (5).

9 (2) The office of the board shall require an acceptable plan of correction and may use
10 any one (1) or more of the following sanctions when disciplining emergency
11 medical services personnel or any entity regulated by the board:

12 (a) Private reprimand that shall be shared with each of the paramedic's,
13 emergency medical responder's, advanced emergency medical technician's, or
14 emergency medical technician's emergency medical services or related
15 employer and medical director;

16 (b) Public reprimand;

17 (c) Fines of fifty dollars (\$50) to five hundred dollars (\$500) for a natural person
18 or fifty dollars (\$50) to five thousand dollars (\$5,000) for a public agency or
19 business entity;

20 (d) Revocation of certification or licensure;

21 (e) Suspension of certification or licensure until a time certain;

22 (f) Suspension until a certain act or acts are performed;

23 (g) Limitation of practice permanently;

24 (h) Limitation of practice until a time certain;

25 (i) Limitation of practice until a certain act or acts are performed;

26 (j) Repassing a portion of the paramedic, emergency medical responder,
27 advanced emergency medical technician, or emergency medical technician

1 examination;

2 (k) Probation for a specified time; or

3 (l) If it is found that the person who is licensed or certified by the board has been
4 convicted of, pled guilty to, or entered an Alford plea to a felony offense, the
5 license or certification shall be revoked.

6 (3) The filing of criminal charges or a criminal conviction for violation of the
7 provisions of this chapter or the administrative regulations promulgated thereunder
8 shall not preclude the office of the board from instituting or imposing board
9 disciplinary action authorized by this chapter against any person or organization
10 violating this chapter or the administrative regulations promulgated thereunder.

11 (4) The institution or imposition of disciplinary action by the office of the board against
12 any person or organization violating the provisions of this chapter or the
13 administrative regulations promulgated thereunder shall not preclude the filing of
14 criminal charges against or a criminal conviction of any person or organization for
15 violation of the provisions of this chapter or the administrative regulations
16 promulgated thereunder.

17 **(5) If the board determines that an air ambulance provider has violated Section 3 of**
18 **this Act, it shall send notification of the violation to the commissioner of the**
19 **Department of Insurance for possible imposition of a civil penalty under Section**
20 **7 of this Act.**

21 ➔Section 9. KRS 367.990 is amended to read as follows:

22 (1) Any person who violates the terms of a temporary or permanent injunction issued
23 under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of
24 not more than twenty-five thousand dollars (\$25,000) per violation. For the
25 purposes of this section, the Circuit Court issuing an injunction shall retain
26 jurisdiction, and the cause shall be continued, and in such cases the Attorney
27 General acting in the name of the Commonwealth may petition for recovery of civil

- 1 penalties.
- 2 (2) In any action brought under KRS 367.190, if the court finds that a person is
3 willfully using or has willfully used a method, act, or practice declared unlawful by
4 KRS 367.170, the Attorney General, upon petition to the court, may recover, on
5 behalf of the Commonwealth, a civil penalty of not more than two thousand dollars
6 (\$2,000) per violation, or where the defendant's conduct is directed at a person aged
7 sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000)
8 per violation, if the trier of fact determines that the defendant knew or should have
9 known that the person aged sixty (60) or older is substantially more vulnerable than
10 other members of the public.
- 11 (3) Any person with actual notice that an investigation has begun or is about to begin
12 pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys,
13 or falsifies documentary material is guilty of a Class A misdemeanor.
- 14 (4) Any person who, in response to a subpoena or demand as provided in KRS 367.240
15 or 367.250, intentionally falsifies or withholds documents, records, or pertinent
16 materials that are not privileged shall be subject to a fine as provided in subsection
17 (3) of this section.
- 18 (5) The Circuit Court of any county in which any plan described in KRS 367.350 is
19 proposed, operated, or promoted may grant an injunction without bond, upon
20 complaint filed by the Attorney General to enjoin the further operation thereof, and
21 the Attorney General may ask for and the court may assess civil penalties against
22 the defendant in an amount not to exceed the sum of five thousand dollars (\$5,000)
23 which shall be for the benefit of the Commonwealth of Kentucky.
- 24 (6) Any person, business, or corporation who knowingly violates the provisions of KRS
25 367.540 shall be guilty of a violation. It shall be considered a separate offense each
26 time a magazine is mailed into the state; but it shall be considered only one (1)
27 offense for any quantity of the same issue of a magazine mailed into Kentucky.

- 1 (7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty
2 of a Class A misdemeanor.
- 3 (8) In addition to the penalties contained in this section, the Attorney General, upon
4 petition to the court, may recover, on behalf of the Commonwealth a civil penalty of
5 not more than the greater of five thousand dollars (\$5,000) or two hundred dollars
6 (\$200) per day for each and every violation of KRS 367.175.
- 7 (9) Any person who shall willfully and intentionally violate any provision of KRS
8 367.976 to 367.985 shall be guilty of a Class B misdemeanor.
- 9 (10) (a) Any person who violates the terms of a temporary or permanent injunction
10 issued under KRS 367.665 shall forfeit and pay to the Commonwealth a
11 penalty of not more than five thousand dollars (\$5,000) per violation. For the
12 purposes of this section, the Circuit Court issuing an injunction shall retain
13 jurisdiction, and the cause shall be continued, and in such cases the Attorney
14 General acting in the name of the Commonwealth may petition for recovery of
15 civil penalties.
- 16 (b) 1. The Attorney General may, upon petition to a court having jurisdiction
17 under KRS 367.190, recover on behalf of the Commonwealth from any
18 person found to have willfully committed an act declared unlawful by
19 KRS 367.667 a penalty of not more than five thousand dollars (\$5,000)
20 per violation.
- 21 2. In addition to any other penalties provided for the commission of the
22 offense, any person found guilty of violating KRS 367.667(1)(c):
- 23 a. Shall be punished by a fine of no less than five hundred dollars
24 (\$500) for the first offense and no less than five thousand dollars
25 (\$5,000) for any subsequent offense; and
- 26 b. Pay restitution of any financial benefit secured through conduct
27 proscribed by KRS 367.667(1)(c).

- 1 3. The Office of the Attorney General or the appropriate Commonwealth's
2 attorney shall have concurrent enforcement powers as to fines, felonies,
3 and misdemeanors under this paragraph.
- 4 (c) Any person who knowingly violates any provision of KRS 367.652, 367.653,
5 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false
6 or incorrect information to the Attorney General in filing statements or reports
7 required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.
- 8 (11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under
9 KRS 367.765 shall be liable for a penalty of one hundred dollars (\$100) per
10 violation to be collected in the name of the Commonwealth upon action of the
11 Attorney General.
- 12 (12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be
13 liable for a penalty not exceeding one thousand dollars (\$1,000) to be collected in
14 the name of the Commonwealth upon action by the Attorney General.
- 15 (13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or
16 367.816 shall be guilty of a Class C felony.
- 17 (14) Either the Attorney General or the appropriate Commonwealth's attorney shall have
18 authority to prosecute violations of KRS 367.801 to 367.819.
- 19 (15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the
20 Attorney General or the appropriate Commonwealth's attorney shall have authority
21 to prosecute violators of KRS 367.474 to 367.478 and 367.482.
- 22 (16) Any person who violates KRS 367.310 shall be guilty of a violation.
- 23 (17) Any person, partnership, or corporation who violates the provisions of KRS
24 367.850 shall be guilty of a Class A misdemeanor.
- 25 (18) Any dealer in motor vehicles or any other person who fraudulently changes, sets
26 back, disconnects, fails to connect, or causes to be changed, set back, or
27 disconnected, the speedometer or odometer of any motor vehicle, to effect the sale

- 1 of the motor vehicle shall be guilty of a Class D felony.
- 2 (19) Any person who negotiates a contract of membership on behalf of a club without
3 having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty
4 of a Class D felony.
- 5 (20) Any person or corporation who operates or attempts to operate a health spa in
6 violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.
- 7 (21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and
8 (b) The appropriate Commonwealth's attorney shall have authority to prosecute
9 felony violations of KRS 367.832.
- 10 (22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be
11 guilty of a violation. Either the Attorney General or the appropriate county
12 health department may prosecute violators of KRS 367.855 or 367.857.
13 (b) The provisions of this subsection shall not apply to any retail establishment if
14 the wholesaler, distributor, or processor fails to comply with the provisions of
15 KRS 367.857.
- 16 (23) Notwithstanding any other provision of law, any telemarketing company,
17 telemarketer, caller, or merchant shall be guilty of a Class D felony when that
18 telemarketing company, telemarketer, caller, or merchant three (3) times in one (1)
19 calendar year knowingly and willfully violates KRS 367.46955(15) by making or
20 causing to be made an unsolicited telephone solicitation call to a telephone number
21 that appears in the current publication of the zero call list maintained by the Office
22 of the Attorney General, Division of Consumer Protection.
- 23 (24) Notwithstanding any other provision of law, any telemarketing company,
24 telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when
25 that telemarketing company, telemarketer, caller, or merchant uses a zero call list
26 identified in KRS 367.46955(15) for any purpose other than complying with the
27 provisions of KRS 367.46951 to 367.46999.

- 1 (25) (a) Notwithstanding any other provision of law, any telemarketing company,
2 telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999
3 shall be assessed a civil penalty of not more than five thousand dollars
4 (\$5,000) for each offense.
- 5 (b) The Attorney General, or any person authorized to act in his or her behalf,
6 shall initiate enforcement of a civil penalty imposed under paragraph (a) of
7 this subsection.
- 8 (c) Any civil penalty imposed under paragraph (a) of this subsection may be
9 compromised by the Attorney General or his or her designated representative.
10 In determining the amount of the penalty or the amount agreed upon in
11 compromise, the Attorney General, or his or her designated representative,
12 shall consider the appropriateness of the penalty to the financial resources of
13 the telemarketing company, telemarketer, caller, or merchant charged, the
14 gravity of the violation, the number of times the telemarketing company,
15 telemarketer, caller, or merchant charged has been cited, and the good faith of
16 the telemarketing company, telemarketer, caller, or merchant charged in
17 attempting to achieve compliance, after notification of the violation.
- 18 (d) If a civil penalty is imposed under this subsection, a citation shall be issued
19 which describes the violation which has occurred and states the penalty for the
20 violation. If, within fifteen (15) working days from the receipt of the citation,
21 the affected party fails to pay the penalty imposed, the Attorney General, or
22 any person authorized to act in his or her behalf, shall initiate a civil action to
23 collect the penalty. The civil action shall be taken in the court which has
24 jurisdiction over the location in which the violation occurred.
- 25 (26) Any person who violates KRS 367.500 shall be liable for a penalty of two thousand
26 five hundred dollars (\$2,500) per violation. Either the Attorney General or the
27 appropriate Commonwealth's attorney may prosecute violations of KRS 367.500.

1 *(27) Any provider, other than a facility required to be licensed under KRS Chapter*
2 *216B, that fails to comply with Section 2 of this Act shall be liable for a penalty of*
3 *one hundred dollars (\$100) per violation to be collected in the name of the*
4 *Commonwealth upon action of the Attorney General.*

5 ➔Section 10. This Act takes effect on January 1, 2021.