

## **KENTUCKY STATE LAWS AFFECTING PRESERVATION AND MANAGEMENT OF ARCHAEOLOGICAL SITES AND OTHER CULTURAL RESOURCES**

The following state laws and statutes directly or indirectly affect the preservation and management of archaeological sites and other cultural resources in the Commonwealth of Kentucky. Brief descriptions of the purpose of each law and how they affect preservation and management activities are provided, followed by the actual wording of each statute. The wording of the statutes are reproduced exactly as they appear on the Kentucky Revised Statute (KRS) listing provided on the official web site of the Kentucky Legislature. The Internet address for the KRS list is <http://www.lrc.state.ky.us/krs/titles.htm>.

### **Kentucky CRM Laws – Quick List**

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### **KENTUCKY ANTIQUITIES ACT (KRS 164.705 - KRS 164.735; KRS 164.990)**

This is known as the *Kentucky Antiquities Act*, which was created in 1962. It makes it public policy to preserve archaeological sites and objects of antiquity and to limit archaeological work (exploration, excavation, and collection) to qualified persons and institutions. It prohibits the willful damage or destruction of archaeological sites on lands owned or leased by the state, state agencies, counties, or municipalities, and requires a permit from the University of Kentucky's Department of Anthropology to explore or excavate archaeological sites on these lands. It requires anyone who discovers a site to report it to the Department. It is a felony to violate the sections of the *Kentucky Antiquities Act* prohibiting the willful destruction of archaeological sites and requiring permits to excavate.

### **164.705 Declaration of policy.**

It is hereby declared to be the public policy of the Commonwealth to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology and anthropology.

**History:** Created 1962 Ky. Acts ch. 278, sec. 1.

### **164.710 Definitions for KRS 164.705 to 164.735.**

As used in KRS 164.705 to 164.735, unless the context otherwise requires:

- (1) "Archaeological site" means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers.
- (2) "Object of antiquity" means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers. "Department" means the Department of Anthropology of the University of Kentucky.

**History:** Created 1962 Ky. Acts ch. 278, sec. 2.

### **164.715 Prohibition.**

No person shall willfully injure, destroy or deface any archaeological site or object of antiquity situated on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth.

**History:** Created 1962 Ky. Acts ch. 278, sec. 3.

### **164.720 Permit required to excavate.**

- (1) No person shall explore, excavate, appropriate or remove from land owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the Department of Anthropology upon the recommendation of the agency owning or having control of the land upon which the same is situated.
- (2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.

- (3) Each permit issued by the department under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the department shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the department at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with its terms.

**History:** Created 1962 Ky. Acts ch. 278, sec. 4.

#### **164.725 Authority to mark locations.**

The department may designate archaeological sites and objects of antiquity and cause to be posted at the locations thereof appropriate signs or markers.

**History:** Created 1962 Ky. Acts ch. 278, sec. 5.

#### **164.730 Report discovery.**

Any person who discovers an archaeological site or object of antiquity in the course of construction work or otherwise shall report such discovery to the department.

**History:** Created 1962 Ky. Acts ch. 278, sec. 6.

#### **164.735 Authority to contract with private owner.**

The department may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The department may acquire, with any funds available to it for such purpose, title to any real estate upon which is located an archaeological site or object of antiquity which the department determines it is important to be preserved.

**History:** Created 1962 Ky. Acts ch. 278, sec. 7.

#### **164.990 Penalties.**

- (1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 is guilty of a Class D felony, and in addition thereto shall forfeit to the state all equipment used in committing the offense for which such person is convicted.
- (2) Any person who violates the provisions of KRS 164.980 shall be guilty of a Class B misdemeanor.
- (3) Any person who violates KRS 164.377 shall be guilty of a Class A misdemeanor.

- (4) Any person who knowingly violates the provisions of KRS 164.376, or who knowingly induces another, directly or indirectly, to violate the provisions of KRS 164.376, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500).

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 191, sec. 2, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 463, sec. 19, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 120, sec. 1, effective March 30, 1988; and ch. 148, sec. 2, effective July 15, 1988. -- Amended 1974 Ky. Acts ch. 406, sec. 306, effective January 1, 1975. -- Amended 1972 Ky. Acts ch. 367, sec. 7(2). -- Amended 1962 Ky. Acts ch. 278, sec. 8. -- Created 1960 Ky. Acts ch. 92, sec. 6.

## **KENTUCKY HERITAGE COUNCIL (KRS 171.3801 - KRS 171.395)**

These statutes formally created the Kentucky Heritage Council, the state agency whose purpose it is to preserve and protect all meaningful vestiges of Kentucky's heritage, including archaeological sites. The Council maintains an inventory of all archaeological sites recorded in the state, and maintains lists of sites with state or national significance. The director is the State Historic Preservation Officer, a role created by the 1966 National Historic Preservation Act. Thus, the Council administrates the activities related to this act, most importantly for archaeological sites, the National Register of Historic Places and the review and oversight responsibilities that ensure compliance with federal cultural resource management laws and regulations.

### **171.3801 Kentucky Heritage Council -- Members -- Officers -- Meetings -- Heritage division-- Reorganization prohibited.**

- (1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.
- (2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.
- (3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.
- (4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.
- (5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

- (6) The council shall be attached to the Education, Arts, and Humanities Cabinet for administrative purposes.
- (7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.
- (8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

**Effective:** July 15, 1994

**History:** Amended 1994 Ky. Acts ch. 209, sec. 16, effective July 15, 1994. – Created 1982 Ky. Acts ch. 396, sec. 38, effective July 15, 1982.

### **171.381 Duties and functions of council -- Duties of state historic preservation officer.**

- (1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.
- (2) The duties and functions of the council shall be to: (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property; (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern; (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.
- (3) The council may: (a) Accept grants or other funds or property from any available source, public or private; (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45; (c) Enter into such contractual relationships as may be necessary; (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council; (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and (f)

Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
- (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
- (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
- (7) The responsibilities of the state historic preservation officer shall include:
  - (a) Development for the State Historic Preservation Program;
  - (b) Direction of a comprehensive statewide survey of historic properties;
  - (c) Nomination of historic properties to the National Register of Historic Places;
  - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
  - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
  - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
  - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
  - (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
  - (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
  - (j) Development and operation of a program of public information and education concerning the preservation program;
  - (k) Administration of the grants program within the state;
  - (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
  - (m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 338, sec. 8, effective July 14, 2000. – Amended 1994 Ky. Acts ch. 209, sec. 17, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 496, sec. 54, effective July 13, 1990. --

Amended 1984 Ky. Acts ch. 142, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 396, sec. 39, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 154, sec. 13, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 32, sec. 1. -- Created 1966 Ky. Acts ch. 87, sec. 3.

### **171.382 Proposed nomination to National Register of Historic Places -- Notice -- Hearing.**

- (1) Prior to deciding whether to nominate a district, site, building, or object to the National Register of Historic Places created by the National Historic Preservation Act of 1966, the Kentucky Historic Preservation Review Board and the Kentucky Heritage Commission shall afford persons desiring to comment on the proposed nomination the opportunity to be heard by the board, in accordance with subsection (2) of this section.
- (2) The Kentucky Heritage Commission shall give public notice of the proposed nomination of any district, site, building, or object to the National Register of Historic Places before such nomination is presented to the Kentucky Historic Preservation Review Board. The notice shall be published in the county in which the district, site, building, or object is located in accordance with KRS Chapter 424, except that the notice shall be published only one (1) time, at least thirty (30) days prior to the review board's consideration of the nomination. The notice shall state the time and place of the meeting at which the nomination is to be considered and shall indicate that any person desiring to be heard by the historic preservation review board shall be afforded the opportunity to comment on the proposed nomination.

**History:** Created 1976 Ky. Acts ch. 22, sec. 1.

### **171.383 Designation of covered wooden bridges as shrines.**

All covered wooden bridges within the state shall be designated as state shrines by the heritage division according to the procedures of the agency. Each covered wooden bridge shall be identified as such by an official marker placed by the Kentucky Historical Society.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 396, sec. 40, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 170, sec. 1. -- Created 1974 Ky. Acts ch. 364, sec. 1.

### **171.384 Historic preservation review board created -- Members -- Compensation.**

- (1) There is hereby established the Kentucky Historic Preservation Review Board, which shall aid and advise the heritage division in the selection of historic sites and all duties pursuant to Public Law 89-665, as amended, and regulations issued pursuant thereto.
- (2) The board shall be composed of eleven (11) members appointed by the Governor; one (1) of whom shall be a professionally recognized historian; one (1) an architect; and one (1) an archaeologist. Each board member shall receive twenty-five dollars (\$25) per diem and necessary expenses for performance of his duties.

**Effective:** July 13, 1984

**History:** Amended 1984 Ky. Acts ch. 111, sec. 104, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 396, sec. 41, effective July 15, 1982. -- Created 1978 Ky. Acts ch. 155, sec. 113, effective June 17, 1978.

### **171.387 Commission membership -- Powers -- Personnel.**

- (1) The commission may employ a director, who shall serve as its secretary and at its pleasure, and other technical assistants as may be necessary to carry out its purposes.
- (2) The commission may contract, lease, accept gifts and bequests of money and acquire real and personal property by gift, purchase, devise, or bequests, deemed necessary for the proper development and planning of Washington as a historic town, and may preserve, restore, and administer these properties.

**History:** Created 1974 Ky. Acts ch. 397, sec. 2.

### **171.388 Kentucky Register of Heritage Farms.**

- (1) As used in this section, "structure" means a house, barn, shed, crib, silo, windmill, fence, or cemetery marker.
- (2) The heritage division shall establish the Kentucky Register of Heritage Farms. A heritage farm shall comprise at least forty (40) acres and (a) shall have been owned and farmed by the same family for more than one hundred (100) years or, (b) shall include at least one structure more than fifty (50) years old.
- (3) Designation of a farm as a Kentucky Heritage Farm under this section shall not restrict the sale, alteration, use, or the exercise of any other right of ownership.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 396, sec. 42, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 140, sec. 1, effective July 15, 1980.

### **171.390 Report of activities required from commission.**

- (1) The commission shall, within two (2) years of June 21, 1974, submit a written report to the Governor and the General Assembly. The report shall set out, in such detail as may be necessary; the property, historic sites, and buildings to be incorporated into the plan; the manner and method by which the property, sites, and buildings may be restored, preserved, maintained, and operated; the amount of money which will have to be expended for the restoration and maintenance of any property; and the sources from which funds may be derived for these purposes. The commission may seek what state and federal funds are available to aid in the development of the plan and the actual restoration and preservation of Washington as a historic town.



- (2) The submission of the commission's report, required by subsection (1) of this section, shall not conclude the business for which it is created and the commission may continue to exist and perform its designated functions until such time as the Governor may terminate its existence. Upon termination of the commission, all real and personal property held by the commission, remaining after payment of, or provision for payment of, all debts and liabilities of the commission shall become the property of the Commonwealth of Kentucky for the purposes of the Department of Parks or the property of Old Washington, Incorporated, as determined by the commission.

**History:** Created 1974 Ky. Acts ch. 397, sec. 3.

### **171.395 Official museums.**

- (1) The Thomas Edison Butchertown House in Louisville shall be designated as the official Edison Museum in the Commonwealth of Kentucky.
- (2) The Kentucky Railway Museum shall be designated as the official railway museum in the State of Kentucky.
- (3) The official museums shall be so designated by an official marker erected by the Kentucky Historical Society.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 87, sec. 1, effective July 15, 1982 and ch. 396, sec. 43, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 167, sec. 1, effective July 15, 1980.

**Legislative Research Commission Note:** This section was amended by 1982 Acts Ch. 396, Section 43 and by 1982 Acts Ch. 87, Section 1, which are partially in conflict. Effect has been given to the substantive changes made by the General Assembly.

## **Kentucky Cave Protection Act (KRS 433.871 - 433.885)**

The *Kentucky Cave Protection Act* makes it illegal, among other things, to disturb or damage cave surfaces or materials found inside caves, including archaeological remains. Archaeological investigations inside caves cannot be conducted without a permit from the State Archaeologist, and must be carried out under the supervision of the State Archaeologist and the Kentucky Heritage Council. It is a misdemeanor to violate sections of this Act.

### **433.871 Definitions.**

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- (1) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural

subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with "cavern."

- (2) "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.
- (3) "Gate" means any structure or device situated so as to limit or prohibit access or entry to any cave.
- (4) "Person" or "persons" means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- (5) "Owner" means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.
- (6) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.
- (7) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork, and pendants.
- (8) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.
- (9) "Cave life" means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.
- (10) "Troglobitic" means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.
- (11) "Troglophilic" means or refers to any form of cave life which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 1, effective July 15, 1988.

**433.873 Wrongful disturbance or damage to cave surfaces or material found therein.**

- (1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to willfully and knowingly:
  - (a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, notwithstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.
  - (b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
  - (c) Place any gate or other obstruction which may restrict the movement of air or animals through such device.
  - (d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter.
  - (e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.
- (2) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 2, effective July 15, 1988.

**433.875 Unlawful dumping, disposal or burning within cave.**

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave. It shall also be unlawful to burn within a cave any material which produces any smoke or gas which is harmful to any naturally occurring organisms in the cave, except acetylene gas produced by carbide lamps.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 3, effective July 15, 1988.

**433.877 Unlawful removal or disturbance of naturally occurring organisms in cave.**

- (1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state nongame biologist.
- (2) It shall also be unlawful to collect any form of troglobitic or troglophilic cave life for commercial sale, whether or not a profit is gained by such sale.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 4, effective July 15, 1988.

**433.879 Excavation permits -- Requirements -- Supervision by state archaeologist and Kentucky Heritage Council.**

- (1) In addition to the written permission of the owner required by KRS 433.873(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric or historic feature of any cave. The state archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.
- (2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky Heritage Council and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.
- (3) A person applying for a permit pursuant to this section shall:
  - (a) Have knowledge of archaeology, paleontology or history as qualified in subsection (1) of this section;
  - (b) Provide a detailed statement to the state archaeologist giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;
  - (c) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;
  - (d) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and
  - (e) Carry the permit while exercising the privileges granted.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 5, effective July 15, 1988.

#### **433.881 Unlawful sale of speleothems.**

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 6, effective July 15, 1988.

#### **433.883 Cave owner or his agent not to be held liable.**

- (1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.
- (2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 7, effective July 15, 1988.

#### **433.885 Penalties.**

- (1) Any violation of KRS 433.873 to 433.877 or 433.879(1) shall be punished as a Class A misdemeanor.
- (2) Any violation of KRS 433.879(3) or 433.881 shall be punished as a Class B misdemeanor.

**Effective:** July 15, 1988

**History:** Created 1988 Ky. Acts ch. 168, sec. 8, effective July 15, 1988.

**DESECRATION OF VENERATED OBJECTS  
(KRS 525.110)**

**525.110 Desecration of venerated objects, second degree.**

- (1) A person is guilty of desecration of venerated objects in the second degree when he intentionally:
  - (a) Desecrates any public monument or object or place of worship; or
  - (b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.
- (2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 420, sec. 3, effective July 14, 1992. --Amended 1988 Ky. Acts ch. 119, sec. 2, effective March 30, 1988. -- Created 1974 Ky. Acts ch. 406, sec. 221, effective January 1, 1975.

**VIOLATING GRAVES  
(KRS 525.115)**

**525.115 Violating graves.**

- (1) A person is guilty of violating graves when he intentionally:
  - (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or
  - (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or
  - (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.
- (2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
- (3) Violating graves is a Class D felony.
- (4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 276, sec. 7, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 123, sec. 1, effective July 14, 2000. -- Created 1992 Ky. Acts ch. 420, sec. 2, effective July 14, 1992.

## **ABUSE OF A CORPSE (KRS 525.120)**

### **525.120 Abuse of corpse.**

- (1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.
- (2) Abuse of a corpse is a Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a Class D felony.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 276, sec. 8, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 490, sec. 1, effective July 14, 2000. -- Created 1974 Ky. Acts ch. 406, sec. 222, effective January 1, 1975.

## **NOTIFICATION OF LEGAL AUTHORITIES WHEN HUMAN REMAINS ARE DISCOVERED (KRS 72.020)**

When archaeologists discover human remains, they are required notify appropriate law enforcement officials and the county coroner. Ostensibly this is intended to verify that the remains are not associated with a recent murder. The law applies to any individual, hospital, or institution that finds human remains. This law can be applied to artifact collectors who excavate an archaeological site and find human skeletal material.

### **72.020 Duty of person, hospital, or institution finding or possessing dead body -- Duties of coroner, law enforcement officer, embalmer, funeral director, or ambulance service.**

- (1) Any person, hospital, or institution, finding or having possession of the body of any person whose death occurred under any of the circumstances defined in subsections (1) through (12) of KRS 72.025, shall immediately notify the coroner, or his deputy, and a law enforcement agency, which shall report to the scene within a reasonable time. No person shall remove the body or remove anything from the body until directed to do so by the coroner or his deputy, after the law enforcement agency is present or has failed, within a reasonable period of time, to respond.

- (2) The coroner shall take possession of any objects, medical specimens, or articles which, in his opinion, may be helpful in establishing the cause of death, and he can make or cause to be made such tests and examinations of said objects as may be necessary or useful in determining the cause of death. In the event that a criminal prosecution arises, all such objects and articles together with reports of any examinations made upon them, shall be retained by the coroner until their production in evidence is required by the prosecuting authority, unless otherwise directed by written order of the court in which such prosecution is pending.
- (3) Upon final disposition of each criminal prosecution under this section, the court shall by appropriate written order dispose of all objects retained under the provisions of this section.
- (4) If the law enforcement officer at the scene has probable cause to believe that one of the conditions in subsection (1) of this section exists and the coroner refuses to require a post-mortem examination, the officer shall immediately notify the county or Commonwealth attorney who may proceed pursuant to KRS 72.445.
- (5) In all cases listed under KRS 72.025 in which a licensed embalmer, funeral director, or ambulance service is notified and is the first person at the scene of death other than private citizens, he shall notify the coroner and if the death appears to fall within the categories established in subsections (1) through (12) of KRS 72.025, he shall notify a local law enforcement agency.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 195, sec. 2, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 93, sec. 7, effective June 17, 1978. -- Amended 1964 Ky. Acts ch. 127, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 528.

## **KENTUCKY MILITARY HERITAGE COMMISSION** (KRS 171.780-788)

The 2002 session of the General Assembly of the Commonwealth of Kentucky enacted the Kentucky Military Heritage Act which created a new section of KRS 171 and established the Kentucky Military Heritage Commission as an independent agency of the Commonwealth of Kentucky and attached it to the Kentucky Heritage Council for administrative and support purposes.

The Kentucky Military Heritage Commission consists of the Adjutant General, the State Historic Preservation Officer, the Director of the Kentucky Historical Society, the Executive Director of the Commission on Military Affairs, and the Commissioner of the Department of Veteran's Affairs.

The Commission shall receive requests for designation of a geographic site as a military heritage site and for designation of an object as a military heritage object. These designations mean that the site or object cannot be destroyed, removed, or significantly altered, other than for repair or renovation, without the written consent of the Commission. Failure to do so is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.



### **171.780 Definitions for KRS 171.780 to 171.788.**

As used in KRS 171.780 to KRS 171.788, unless the context otherwise requires:

- (1) "Commission" means the Kentucky Military Heritage Commission.
- (2) "Military heritage" means any peacetime, wartime, or other military activity engaged in by any or all of the thirteen (13) original colonies prior to the creation of the United States, activities engaged in by the United States, activities engaged in by the Confederate States of America, and activities of the Kentucky Militia, the Kentucky National Guard, the Kentucky Air National Guard, and any other military, quasimilitary, or partisan unit operating under the jurisdiction of the Commonwealth, or which operated within the Commonwealth. It includes, but is not limited to, the activities of any person who was born in Kentucky, who was a resident of Kentucky, or whose remains are interred in Kentucky as well as the activities of formal or informal military units, paid or volunteer.
- (3) "Military heritage site" means any historic geographic site of military heritage significance declared as such by the commission, pursuant to KRS 171.782, 171.784, and 171.786.
- (4) "Military heritage object" means any building, fortification, statue, monument, marker, work of art, flag, aircraft, field piece, item of military equipment, weapon, or other physical object of military heritage significance declared as such by the commission, pursuant to KRS 171.782, 171.784, and 171.786, including but not limited to buildings, sites, and other landmarks.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 40, sec. 1, effective July 15, 2002.

### **171.782 Kentucky Military Heritage Commission -- Membership -- Request for designation of sites and objects -- Administrative regulations -- Funding -- Employees.**

- (1) The Kentucky Military Heritage Commission is hereby established as an independent agency of the Commonwealth of Kentucky which is attached to the Kentucky Heritage Council for administrative and support purposes. The Heritage Council may request and receive additional administrative aid and support from the Kentucky Historical Society, the Department of Military Affairs, the Commission on Military Affairs, and the Department of Veterans' Affairs.
- (2) The Kentucky Military Heritage Commission shall consist of the adjutant general, the Director of the Kentucky Historical Society, the state historic preservation officer, the executive director of the commission on Military Affairs, and the commissioner of the Department of Veterans' Affairs.

- (3) The commission shall receive requests for designation of a geographic site as a military heritage site and for designation of an object as a military heritage object in accordance with KRS 171.780 to 171.788 and the administrative regulations promulgated thereunder.
- (4) The commission shall promulgate administrative regulations necessary to carry out KRS 171.780 to 171.788 and to protect military heritage sites and military heritage objects.
- (5) The commission may seek funding from any source, public or private, and may expend funds for the operation of the commission and for the protection of military heritage sites and military heritage objects.
- (6) The commission may employ such persons as it deems necessary, consistent with available funding, to carry out the duties of the commission.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 40, sec. 2, effective July 15, 2002.

**171.784 Nomination of locations and objects for military heritage designation --  
Recession.**

- (1) Any person or organization may nominate a geographic location for designation as a military heritage site or to rescind a designation as a military heritage site.
- (2) Any person or organization may nominate an object for designation as a military heritage object or to rescind a designation as a military heritage object.
- (3) Private property shall not be designated as a military heritage site or as a military heritage object unless:
  - (a) The nomination is made by the owner of the property if held by a single owner or by all owners of the property if the property is held jointly; or
  - (b) The nomination is approved, in writing, by the owner of the property if held by a single owner or by all owners of the property if the property is held jointly.
- (4) The commission shall promulgate administrative regulations with regard to the process of designation of a military heritage site and a military heritage object and the characteristics of a qualifying site and qualifying object.
- (5) The commission shall meet not less than two (2) times per year to act upon nominations of geographic locations proposed as military heritage sites and nominations of objects as military heritage objects. The commission at any meeting may also act on requests to rescind any designation of a military heritage site or military heritage object.
- (6) To designate a site as a military heritage site or to designate an object as a military heritage object requires a majority vote of the members of the commission.

- (7) To rescind the designation of a site as a military heritage site or to rescind the designation of an object as a military heritage object requires a unanimous vote of the members of the commission.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 40, sec. 3, effective July 15, 2002.

### **171.786 Meaning of military heritage designation -- Administrative regulations.**

- (1) Designation of an historic geographic site as a military heritage site means that the site cannot be destroyed, removed, or significantly altered, other than for repair or renovation without the written consent of the commission.
- (2) Designation of an object as a military heritage object means that the object cannot be destroyed, removed, sold, or significantly altered, other than for repair or renovation or temporary loan not exceeding one (1) year without the written consent of the commission.
- (3) The commission shall promulgate administrative regulations defining permitted and forbidden activities relating to military heritage sites and military heritage objects and which activity requires either written permission of the commission or action by the commission to rescind the designation of the site as a military heritage site or rescind the designation of the object as a military heritage object.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 40, sec. 4, effective July 15, 2002.

### **171.788 Penalties of destruction or alteration.**

- (1) Destruction, removal, sale, gift, loan, or significant alteration of a site designated as a military heritage site without the written approval of the commission or the commission's rescinding the designation of the site as a military heritage site is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (2) Destruction, removal, sale, gift, loan, or significant alteration of an object designated as a military heritage object without the written approval of the commission or the commission's rescinding the designation of the object as a military heritage object is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (3) The provision of this section shall not apply to repair, restoration, and temporary loan activities which are permitted by KRS 171.786.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 40, sec. 5, effective July 15, 2002.