

### **138.990 Penalties.**

- (1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.
- (2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.
- (3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.
- (4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the department or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.
- (5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.
- (6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.
- (7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.
- (8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.
- (9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.
- (10)
  - (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars (\$2,000) per offense.
  - (b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.
- (11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

- (12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.
- (13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.
- (14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.
- (15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.
- (16) Any person violating KRS 138.175 shall be guilty of a Class D felony.
- (17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:
  - (a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars (\$250) or less; and
  - (b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars (\$250).

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 406, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 600, sec. 5, effective April 14, 1998. -- Amended 1992 Ky. Acts ch. 463, sec. 15, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 285, sec. 33, effective August 1, 1988. -- Amended 1986 Ky. Acts ch. 431, sec. 6, effective January 1, 1987. -- Amended 1966 Ky. Acts ch. 255, sec. 136. -- Amended 1964 Ky. Acts ch. 141, sec. 36. -- Amended 1962 Ky. Acts ch. 92, sec. 9. -- Amended 1958 Ky. Acts ch. 70, sec. 23; and ch. 126, sec. 15. -- Amended 1956 (2d Extra. Sess.) Ky. Acts ch. 9, sec. 28. -- Amended 1954 Ky. Acts ch. 97, sec. 15. -- Amended 1952 Ky. Acts ch. 191, sec. 15. -- Amended 1948 Ky. Acts ch. 94, sec. 4. -- Amended 1946 Ky. Acts ch. 10, sec. 11. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4223b-11, 4281e-7, 4281e-8, 4281e-15, 4281f-14, 4281f-20, 4281f-29, 4281g-12, 4281g-16, 4281g-20, 4281h-11, 4281h-15, 4281h-16, 4281i-9.

**Legislative Research Commission Note.** 1986 Acts, ch. 431, § 15 read: "Such administrative expenses for the administration of KRS 138.462 to 138.4631, 138.990 and 186.010 shall be appropriated to the transportation cabinet as determined to be necessary by the cabinet. Any additional employees deemed necessary by the transportation cabinet for the administration of KRS 138.462 to 138.4631, 138.990 and 186.010 shall not be deemed a violation of numerical employee limits that may be imposed by the 1986 General Assembly."