

217.125 Authority of secretary and cabinet to promulgate administrative regulations -- Permits required for food establishment, service, processing, storage, and distribution operations -- Fees.

- (1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health and Family Services.
- (2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall promulgate administrative regulations to establish a fee schedule not to exceed costs of the program to the cabinet. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.
- (3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.
- (4)
 - (a) Except as otherwise provided in subsection (11) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall promulgate administrative regulations to establish a fee schedule not to exceed costs to the cabinet.
 - (b) The total fees for permitting and inspection:
 1. Shall be the total of the operational and administrative costs of the programs to the cabinet and to agencies as defined in KRS 211.185;
 2. Beginning on March 17, 2020, until December 31, 2020, shall not increase more than twenty-five percent (25%) of the fee amount on March 17, 2020; and
 3. Beginning on or after January 1, 2021, shall not increase more than five percent (5%) for each year thereafter.
- (5) Except as otherwise provided in subsection (11) of this section, each application for a farmers market temporary food service establishment shall be accompanied by the required fee of at least fifty dollars (\$50). The secretary shall establish a fee schedule by promulgation of administrative regulation. Fees collected by the cabinet

shall be used to carry out duties related to farmers market temporary food service establishments, including but not limited to inspections and the issuance of permits.

- (6) An applicant for a permit to operate a farmers market temporary food service establishment must provide documentation of successful completion of a food safety training program offered by either the state, a local health department, or other entity approved by the cabinet to conduct food safety training. Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance. Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.
- (7) Upon expiration of a temporary food service establishment permit, any subsequent permits shall not be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.
- (8) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.
- (9) Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same operator.
- (10) In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.
- (11) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.
- (12) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (11) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.
- (13) Each permit to operate a food processing establishment, food storage warehouse,

salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Effective: March 17, 2020

History: Amended 2020 Ky. Acts ch. 21, sec. 8, effective March 17, 2020. -- Amended 2018 Ky. Acts ch. 136, sec. 12, effective July 1, 2019. -- Amended 2007 Ky. Acts ch. 97, sec. 2, effective March 23, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 62, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 7, sec. 2, effective February 19, 1998, retroactive to January 1, 1998; and ch. 426, sec. 457, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 211, sec. 79, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 458, sec. 2, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 247, sec. 11, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 292, sec. 7, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(22). -- Created 1960 Ky. Acts ch. 247, sec. 13.