

1 AN ACT relating to geoengineering.

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

3 ➔SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER
4 224 IS CREATED TO READ AS FOLLOWS:

5 *The General Assembly hereby finds and declares that:*

6 *(1) Atmospheric polluting activities involving the intentional release of polluting*
7 *emissions, including weather modification, stratospheric aerosol injection, solar*
8 *radiation modification, and other forms of geoengineering:*

9 *(a) Endanger human health and safety and the environment;*

10 *(b) Threaten air, water, soil, and wildlife resources;*

11 *(c) Disrupt agricultural operations; and*

12 *(d) Potentially interfere with aviation, state security, and the economy of the*
13 *Commonwealth;*

14 *(2) Pursuant to the Tenth Amendment of the Constitution of the United States and*
15 *the inherent right for Kentucky citizens to engage in thoughtful deliberation and*
16 *determine public policy by voting, the citizens of the Commonwealth do not*
17 *consent to any unconstitutional actions or efforts made by the federal government*
18 *or international bodies that intentionally release polluting emissions into the*
19 *Commonwealth's atmosphere, through geoengineering, cloud seeding, weather*
20 *modification, or any other means; and*

21 *(3) To preserve the safe and healthful uses of the Commonwealth's atmosphere for*
22 *its people, environment, and agriculture, and to improve beneficial climate*
23 *efforts, it is necessary to prohibit geoengineering and to provide for enforcement*
24 *and penalties for violative activities.*

25 ➔SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER
26 224 IS CREATED TO READ AS FOLLOWS:

27 *As used in Sections 1 to 3 of this Act, except that to the extent of any conflict between*

1 this section and any provision of KRS 224.1-010, the provisions of KRS 224.1-010 shall
2 prevail and control:

3 (1) "Aerosol injection" means the release of reflective sulfate or other aerosol
4 particles in the stratosphere by high altitude planes, tethered balloons, high-
5 altitude blimps, artillery, or other means;

6 (2) "Artificial intelligence" or "AI" means systems or machines that mimic human
7 intelligence to perform tasks and that can iteratively improve themselves based on
8 the information they collect;

9 (3) (a) "Atmospheric contaminant" means any type of aerosol, biological,
10 nonbiological, or hazardous agent, chaff, genetically modified agent, metal,
11 radioactive material, vapor, electromagnetic radiation or field, mechanical
12 vibration, particulate of any size, or any air pollutant regulated by the
13 Commonwealth, and any combination thereof.

14 (b) "Atmospheric contaminant" does not include any engine exhaust from an
15 aircraft using unadulterated certified aviation fuel;

16 (4) "Atmospheric polluting activity" means any deliberate release of an atmospheric
17 contaminant by any human, or by artificial intelligence, or any combination
18 thereof, that occurs in the atmosphere and that may have harmful consequences
19 on human health, the environment, or agriculture;

20 (5) "Chaff" means aluminum-coated silica glass fibers, typically dispersed in
21 bundles containing millions of inhalable fibers, which break apart and fall to the
22 ground;

23 (6) "Cloud seeding" means a type of weather modification that involves the
24 deliberate introduction of various substances into a cloud in order to induce or
25 increase precipitation from the cloud;

26 (7) "Commissioner" means the commissioner of the Department for Environmental
27 Protection;

- 1 (8) "Department" means the Department for Environmental Protection;
- 2 (9) "Entity" means any individual, trust, firm, joint stock company, corporation,
3 quasi-governmental corporation, nongovernmental organization, partnership,
4 association, syndicate, club, college, university, any agency, subdivision, or
5 instrumentality of federal, state, or local government, or any interstate or
6 international governance body;
- 7 (10) "Geoengineering" means the intentional manipulation of the environment,
8 through an atmospheric polluting activity, to effect changes to the earth's
9 atmosphere or surface, including but not limited to the practices of weather
10 modification, aerosol injection, and cloud seeding;
- 11 (11) "Hazardous" means a substance or physical agent that by its nature is harmful to
12 living organisms, property, or any other valuable interest;
- 13 (12) "Individual" means a natural person;
- 14 (13) "Maser" means a device using the stimulated emission of radiation by excited
15 atoms to amplify or generate radiation in the microwave range;
- 16 (14) "Physical agent" means a source of energy that may cause injury through
17 excessive exposure, including but not limited to radiofrequency, microwave, and
18 other electromagnetic radiation and fields, barometric pressure, temperature,
19 gravity, mechanical vibration, and sound;
- 20 (15) "Release" means any activity that results in the issuance of atmospheric
21 contaminants such as the emitting, transmitting, discharging, or injecting of one
22 (1) or more nuclear, biological, chemical, or physical agents into the ambient
23 atmosphere, whether once, intermittently, or continuously;
- 24 (16) "Solar radiation modification" means any attempt to reduce global temperatures
25 by reflecting more sunlight into space or allowing more infrared radiation from
26 earth to escape than would naturally occur; and
- 27 (17) "Weather modification" means the changing, controlling, or interfering with or

1 attempting to change, control, or interfere with the natural development of cloud
2 forms, precipitation, barometric pressure, temperature, conductivity or other
3 electromagnetic or sonic characteristics of the atmosphere.

4 ➔SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER
5 224 IS CREATED TO READ AS FOLLOWS:

6 (1) No entity in the Commonwealth shall engage in any form of geoengineering
7 activities. The commissioner shall investigate any credible reports of
8 geoengineering occurring in the Commonwealth received under this section, and
9 shall issue an order to any entity that he or she finds is engaging in
10 geoengineering to immediately cease all geoengineering activities. Upon issuing
11 the order, the commissioner shall pursue the imposition of all penalties for
12 engaging in geoengineering authorized under this chapter and the administrative
13 regulations promulgated hereunder.

14 (2) If any activity that the department has deemed to be geoengineering has been
15 approved, explicitly or implicitly, by the federal government, the department shall
16 issue a notice to the appropriate federal agency that the geoengineering activity
17 cannot lawfully be carried out within or over the Commonwealth.

18 (3) If the department finds that a foreign state or international body funds, in part or
19 in whole, or engages in any geoengineering activity, the department shall prohibit
20 it from engaging in any atmospheric activities in or above the Commonwealth.
21 The department shall also provide notice to the foreign state or international body
22 that the geoengineering activity cannot lawfully be carried out within or over the
23 Commonwealth.

24 (4) The department shall publish quarterly notices in newspapers of general
25 circulation pursuant to KRS Chapter 424, and shall post notices on the
26 department's website, to encourage the public to monitor, measure, document,
27 and report present, potential, and past incidents that may constitute

1 geoengineering activities. An individual who wishes to present evidence of
2 geoengineering may email or otherwise send to the commissioner any of the
3 following:

4 (a) Evidentiary photographs, each separately titled as an electronic or hard
5 copy document, with the respective location and direction from which the
6 photograph was taken, with its time and date; and

7 (b) Any other collected samples of video or audio recordings, lab tests,
8 microscopy, spectrometry, metering, and other forms of evidence that the
9 individual may have.

10 (5) Any local or state official who has received information that causes him or her to
11 suspect geoengineering activity is occurring shall report that information to the
12 commissioner within twenty-four (24) hours of receiving it.

13 (6) The department shall investigate reports of excessive electromagnetic radiation or
14 fields caused by human activity in any part of the spectrum, including but not
15 limited to radiofrequency, microwave, maser, infrared, laser, and ionizing
16 radiation to ensure that they are not the result of violations of the requirements of
17 this chapter or the administrative regulations promulgated hereunder.

18 ➔Section 4. KRS 224.99-010 is amended to read as follows:

19 (1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120,
20 224.20-050, 224.20-110, 224.46-580, 224.1-400, or who fails to perform any duties
21 imposed by these sections, or who violates any determination, permit,
22 administrative regulation, or order of the cabinet promulgated pursuant thereto shall
23 be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars
24 (\$25,000) for each day during which such violation continues, and in addition, may
25 be concurrently enjoined from any violations as hereinafter provided in this section
26 and KRS 224.99-020.

27 (2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-

1 305, or any provision of this chapter relating to noise, or who fails to perform any
2 determination, permit, administrative regulation, or order of the cabinet
3 promulgated pursuant thereto shall be liable for a civil penalty not to exceed the
4 sum of five thousand dollars (\$5,000) for said violation and an additional civil
5 penalty not to exceed five thousand dollars (\$5,000) for each day during which such
6 violation continues, and in addition, may be concurrently enjoined from any
7 violations as hereinafter provided in this section and KRS 224.99-020.

8 (3) (a) Any person who shall knowingly violate any of the provisions of this chapter
9 relating to noise or any determination or order of the cabinet promulgated
10 pursuant to those sections which have become final shall be guilty of a Class
11 A misdemeanor. Each day upon which the violation occurs shall constitute a
12 separate violation.

13 (b) For offenses by motor vehicles, a person shall be guilty of a violation.

14 (4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100,
15 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination,
16 permit, administrative regulation, or order of the cabinet promulgated pursuant to
17 those sections which have become final, or who knowingly provides false
18 information in any document filed or required to be maintained under this chapter,
19 or who knowingly renders inaccurate any monitoring device or method, or who
20 tampers with a water supply, water purification plant, or water distribution system
21 so as to knowingly endanger human life, shall be guilty of a Class D felony, and
22 upon conviction thereof, shall be punished by a fine not to exceed twenty-five
23 thousand dollars (\$25,000), or by imprisonment for a term of not less than one (1)
24 year and not more than five (5) years, or by both fine and imprisonment, for each
25 separate violation. Each day upon which a violation occurs shall constitute a
26 separate violation.

27 (5) If any person engages in generation, treatment, storage, transportation, or disposal

1 of hazardous waste in violation of the hazardous waste management provisions of
2 this chapter or contrary to a permit, order, or rule issued or promulgated under this
3 chapter, or fails to provide information or to meet reporting requirements required
4 by terms and conditions of a permit or administrative regulations promulgated
5 pursuant to this chapter, the secretary may issue an order requiring compliance
6 within a specified time period or may commence a civil action in a court of
7 appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed
8 the sum of twenty-five thousand dollars (\$25,000) for each day during which the
9 violation continues, and in addition, may be enjoined from any violations in a court
10 of appropriate jurisdiction.

11 (6) Any person who knowingly is engaged in generation, treatment, storage,
12 transportation, or disposal of hazardous waste in violation of this chapter or
13 contrary to a permit, order, or administrative regulation issued or promulgated
14 under this chapter, or knowingly makes a false statement, representation, or
15 certification in an application for or form pertaining to a permit or in a notice or
16 report required by the terms and conditions of an issued permit, shall be guilty of a
17 Class D felony, and upon conviction thereof, shall be punished by a fine not to
18 exceed twenty-five thousand dollars (\$25,000) for each day of violation, or by
19 imprisonment for a term of not less than one (1) year and not more than five (5)
20 years, or by both fine and imprisonment, for each separate violation. Each day upon
21 which a violation occurs shall constitute a separate violation.

22 (7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of
23 any person to recover actual compensatory damages resulting from any violation.

24 (8) Any person who violates any provision of this chapter to which no express penalty
25 provision applies, except as provided in KRS 211.995, or who fails to perform any
26 duties imposed by those sections, or who violates any determination or order of the
27 cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed

1 the sum of one thousand dollars (\$1,000) for said violation and an additional civil
2 penalty not to exceed one thousand dollars (\$1,000) for each day during which the
3 violation continues, and in addition, may be concurrently enjoined from any
4 violations as hereinafter provided in this section and KRS 224.99-020.

5 (9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil,
6 criminal, and injunctive actions instituted by the cabinet or by the Attorney General
7 on its behalf for the enforcement of the provisions of this chapter or the orders and
8 administrative regulations of the cabinet promulgated pursuant thereto, except for
9 any actions arising from or related to KRS 278.710(3), (4), or (5) or subsection (16)
10 of this section, which shall be brought in the Circuit Court in any county in which
11 the merchant electric generating facility is located.

12 (10) Any person who deposits leaves, clippings, prunings, garden refuse, or household
13 waste materials in any litter receptacle, except with permission of the owner of the
14 receptacle, or who places litter into a receptacle in such a manner that the litter may
15 be carried away or deposited by the elements upon any property or water not owned
16 by him or her is guilty of a Class B misdemeanor. Penalties imposed under this
17 subsection shall be, when collected, transferred to the county treasurer where the
18 offense occurred and placed into a fund for solid waste cleanup. This subsection
19 shall not be construed to divert any other fines assessed and collected by the cabinet
20 or funds available to the cabinet for the purpose of remediation of open dumps.

21 (11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters
22 532 and 534, any person found guilty of a second or subsequent offense related to
23 littering may be ordered by the court to pick up litter for not less than four (4)
24 hours.

25 (12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this
26 chapter, or any determination, permit, administrative regulation, or order of the
27 cabinet relating to the Asbestos Hazard Emergency Response Act of 1986

1 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth
2 of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand
3 dollars (\$25,000) for each violation. Each day a violation continues shall, for
4 purposes of this subsection, constitute a separate violation of provisions of this
5 chapter relating to AHERA.

6 (13) A violation of KRS 224.50-413 shall be subject to a fifty dollar (\$50) fine for each
7 day the violation continues.

8 (14) Any person who removes a methamphetamine contamination notice posted under
9 KRS 224.1-410(9) contrary to the administrative regulations governing
10 methamphetamine contamination notice removal shall be guilty of a Class A
11 misdemeanor.

12 (15) Any person who leases, rents, or sells a property that has been determined to be
13 contaminated property under KRS 224.1-410(4) to a lessee, renter, or buyer without
14 giving written notice that the property is a contaminated property pursuant to KRS
15 224.1-410(10) shall be guilty of a Class D felony.

16 (16) Any person who violates KRS 278.710(3), (4), or (5) may be subject to civil
17 penalties not to exceed two thousand five hundred dollars (\$2,500) per day. In
18 determining the civil penalty to be imposed under this subsection, the cabinet shall
19 consider all relevant circumstances including but not limited to the extent of harm
20 or potential harm caused by the violation, the nature and duration of the violation,
21 the number of past violations, and any corrective action taken by the merchant
22 electric generating facility owner. If a merchant electric generating facility fails to
23 pay any civil penalty for noncompliance under this subsection for a period of three
24 hundred sixty-five (365) days after a final determination of the assessment of the
25 civil penalty, or fails to post a bond or replacement bond in compliance with KRS
26 278.710(3), (4), or (5) within ninety (90) days of a final determination that the bond
27 or replacement bond is required, the cabinet may order suspension of its operations

1 until it is brought back into compliance and all civil penalties have been paid or the
2 bond or replacement bond is posted. If after a final determination that the cabinet's
3 order suspending operations of the facility is valid, and the merchant electric
4 generating facility fails to bring the facility back into compliance by paying all
5 outstanding civil penalties or posting the bond or replacement bond within ninety
6 (90) days of that final determination, the cabinet may order the decommissioning of
7 the facility to commence.

8 *(17) In addition to any other penalties that may apply, any person who knowingly*
9 *engages in geoenvironmental activities in violation of Section 3 of this Act shall be*
10 *guilty of a Class D felony, and shall also be liable for a civil penalty of not less*
11 *than five hundred thousand dollars (\$500,000). Each day that a person*
12 *knowingly engages in geoenvironmental activities shall constitute a separate*
13 *offense.*