

KCC Alert



Kentucky Conservation Committee, P.O. Box 1152, Frankfort, KY 40602

502-875-0909

Recycling Legislation

Rep. Greg Stumbo (D, Prestonsburg) has re-filed both of his now famous "bottle bills" from the last session but has changed his mind, and will replace one, removing container deposits.

Last session's HB 1 re-emerged as HB 2. This is a comprehensive program of mandatory garbage collection, container deposits, and litter cleanups financed by a pre-disposal fee on fast food packaging.

Stumbo is now expected to replace this bill with one more in line with the Governor's proposal, which concentrates on mandatory garbage collection, expanding it to include cleanup and educational programs.

Stumbo's new proposal would pay for dump and litter cleanup with a 0.5 cent advance disposal fee on fast food packing and drink containers.

Industry can be expected to fight this proposal as burdensome to business.

The other "Bottle Bill" is HB 9. This bill proposes a constitutional amendment to allow a voter referendum on container deposits. The voters would have to approve the constitutional amendment and then gather enough signatures to place the issue on the ballot. The House approved this same measure last session but due to partisan squabbling it was not taken up by the Senate.

New this time around is HB 57 introduced by Rep. Cornett which appropriates funds for a solid waste education program. The Natural Resources and Environmental Protection Cabinet would distribute these funds to counties. Counties would be required to supply a 25% match. This is a good bill in concept with some technical difficulties. It is not a substitute for a comprehensive solid waste management program.

We'll have more details on the Governor's and Stumbo's proposals in the next Alert.

KCC To Do List:

- ❑ Call your county clerk to find out who your state Senator and Representative are.
- ❑ Call your state Senator. Ask him/her to Oppose SB 2 as not protective of citizens, especially neighbors.
- ❑ Call your Senator and Representative. Ask them to support meaningful solid waste proposals to include mandatory garbage collection, recycling, and container deposits.
- ❑ Call your Senator and Representative. Ask for full funding for the Environmental Education Master plan.
- ❑ Come lobby with Wade and Dick. Call the KCC number to arrange.

Return of the Brownfield

Abandoned, contaminated industrial sites, known as "brownfields", are the subject of several bills. The primary initiative is Senate Bill 2, introduced by Senators Leeper (D, Paducah) and Karem (D, Louisville). Although the goal of cleaning up and reusing these sites is laudable, this bill is not protective of public health and safety.

SB 2 is but the latest iteration of industry efforts to lower clean-up standards. The bill deficiencies include:

- a lack of a clear obligation to identify, characterize, disclose, and fully remediate all releases of hazardous substances to a level protective of public health and the environment;
- a lack of clear authority of the Natural Resources & Environmental Protection Cabinet to require additional data collection and analysis;
- a lack of a clear standard for an acceptable characterization and remediation plan;
- a failure to require the Cabinet to respond to written comments on a proposed remediation plan, and a failure to allow public comment regarding the scope of investigation and characterization of the releases on the property;
- allowing a covenant not to sue to be issued, protecting a responsible party from further liability, even where the contamination is not fully remediated;
- a failure to reopen a "covenant not to sue" and take additional action against the responsible party for additional remediation if the state had made a mistake in approving the remediation plan, resulting in the need for further cleanup;
- creation of a "Cleanup Standards Science Advisory Board" that would set the clean-up levels for all hazardous releases both under this "voluntary" program and in Cabinet enforcement cases. The problems with this Board include:
 - * the failure to require the setting of standards at a level sufficiently protective of the public based on current and future land uses;
 - * the shifting of the burden from the "precautionary principle," where in the absence of complete health data a more conservative assumption is chosen, to the "prove harm" model where standards are set only where there is a "substantial present or probable future risk" to health or the environment;
 - * the Board qualifications and composition are insufficient to assure the adoption of standards that are protective of the public interest.
 - * the Board functions are duplicative of research being conducted and funded at the national level.
 - * the fiscal impacts will be potentially enormous, and the bill contains no new funding but rather requires that the Natural Resources Cabinet provide any needed funding for the Board, including research funding.

Key Committee Assignments

Senate Agriculture and Natural Resources

Ernie Harris (R), **Chair**, Vernie McGaha (R), **Vice Chair**, Robert J. "Bob" Leeper (R), Joey Pendleton (D), Paul Herron, Jr. (D), Virgil Moore (R), Dan Kelly (R), Tim Shaughnessy (D), Ed Worley (D), Ernesto Scorsone (D), Elizabeth Tori (R)

Senate State and Local Government

Albert Robinson (R), **Chair**, Alice Forgy Kerr (R), **Vice Chair**, Walter Blevins, Jr. (D), Ed Miller (D), Ernie Harris (R), Elizabeth Tori (R), David L. Williams (R), Charlie Borders (R), Ernesto Scorsone (D), David Boswell (D), Johnny Ray Turner (D)

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House Appropriations and Revenue

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House Natural Resources and Environment

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CAFO Regulations To Sunset

Kentucky's regulations on Confined Animal Feeding Operations (CAFOs) will likely sunset (end) at the end of the legislative session, less than one year after taking effect.

These rules were issued as "emergency" regulations under Kentucky's Administrative regulation procedures. "Emergency" status allows the Natural Resource Environmental Protection Cabinet to promulgate regulations without the approval of the legislature.

Under these rules, if one member of the interim legislative committees responsible for overseeing these regulations doesn't like them, he/she can attach a letter. This attachment will cause the regulations to sunset at the end of the next legislative session if the legislature does not approve them. The current rules were attached last September by the interim Agriculture committee. The legislature does not look favorably on most regulation, particularly where the Farm Bureau is opposed.

The Cabinet can promulgate a new set of "emergency" regulations as long they are substantially different than the set that were killed by the legislature.

Kentucky's current regulations cover poultry, swine, beef, and dairy operations. They require protections to prevent polluted runoff from litter, establish setbacks for barns and houses, and require the integrator to be liable for environmental damages such as waste lagoon spillage. In actuality, few operations in Kentucky are currently large enough to qualify as a CAFO.

The Farm Bureau has sued the Cabinet over integrator liability on the grounds that it is stricter than EPA guidelines, something prohibited by Kentucky law. In the waning days of the Clinton Administration, the EPA issued it's final guidelines on CAFOs which do include integrator liability. This could have a significant impact on the outcome of the law suit. Immediately after his inauguration, however, Bush took steps to try to hold up and potentially reverse this decision by EPA.

In our legislature, there are moves afoot to put an end to this regulatory battle. SB 60 introduced by David Williams would limit the use of emergency regulations to situations where there is an immediate threat to human health or safety. This could effectively handcuff the Cabinet in its efforts to impose integrator liability, or perhaps any regulations.

Contacting Your Legislators

Who are my legislators? You can look up your legislators on the web at www.lrc.state.ky.us/whoswho/whoswho.htm or you can call your local county clerk. All they need is your address.

How do I communicate with them? There are several ways to communicate.

The legislative message line will get you an operator who will write down a message for you, no questions asked. Use the number listed under Legislative Message line in our phone number box. The number is frequently busy. Early mornings seem to work best.

You can send a fax, the number is listed here. Faxes can be sent to multiple legislators, or whole committees.

Many legislators have email. They can be found from the web address listed above. Some legislators respond, some do not.

If the issue is not urgent, regular mail can be sent to The Capitol Annex, Frankfort, KY 40601.

What do I say? Your message can be as simple as "Please support bill xyz." You don't have to be an expert. Personal experiences that relate can be effective.

Legislative Information On the Internet

The Bill summaries, status, the full text of all filed bills, the legislative calendar, the orders of the day, legislators' email addresses, and more (updated daily) are available on the Legislative Research Commission's Web Site. <http://www.lrc.state.ky.us/home.htm>

Important Legislative Phone Numbers

Legislator Message Line: 1-800-372-7181
To talk to a legislator: 1-502-564-8100
Bill Status Line: 1-800-776-9158
Committee Calendar Line: 1-800-633-9650
Governor Paul Patton: 502-564-2611
Secretary James Bickford: 502-564-3350
Legislator Fax line: 502-564-6543

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2000/2001 KCC Lobbyists

Wade Helm, 502-568-1541
Dick Shore, 888-44J-MUIR

Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
HB 2	Strong Support	Stumbo	Comprehensive solid waste bill known as HB 1 from 2000. Includes mandatory garbage collection and container deposits.	House Nat. Resources & Env.
HB 9	Strong Support	Stumbo	Constitutional Amendment to allow voter referendum on a bottle bill.	House Elections, Const. Amend & Intrgov Affairs
HB 15	Monitor	Cornett	Prohibit natural gas companies from condemning property for pipelines	House Tourism Dvlpmnt & Energy
HB 20	Strong Oppose	Belcher	Defines "agriculture", "aquaculture", "horticulture", "livestock", "poultry". In effect, extends exemptions to environmental protections.	House Ag & Small Business
HB 24	Support	Cherry	Sales tax exemption for bee keepers.	House Approp. & Revenue
HB 27	Strong Oppose	Marcotte	Exempts cars less than 5 years old from Vehicle Emissions Tests.	House Nat. Resources & Env.
HB 34	Support	Bather	Creates Office of Multicultural Health to address health disparities among racial, ethnic, cultural and gender groups and geographic areas.	House State Government
HB 55	Strong Support	Wayne	Training requirements for Planning boards, staff, and Brd of adjstmnts	Posted in House Local Government
HB 57	Support	Cornett	Approp. \$2.5 million to recycling, waste reduction, litter prevention.	House Nat. Resources & Env
HB 74	Support	Barrows	Allow local governments to contribute to 501c3 non-profit orgs. that run community centers or recreational facilities.	House Judiciary
HB 77	Support	Barrows	Constitutional Amendment to lengthen voting hours by one hour. Companion to SB 24.	House Elections, Const. Amend & Intrgov Affairs
HB 87	Investigate	Stumbo	Confirm Exec Order placing Tourism Development Authority in the Tourism Development Cabinet	House State Government
HB 91	Investigate	Stumbo	Confirm Exec Order placing Office of Coal County Development in the Cabinet for Economic Development	House State Government
HB 100	Support	Barrows	Creates an industrial hemp research program.	House Ag & Small Business
HB 103	Strong Oppose	Damron	Allow civil engineers to inspect on-site sewage disposal systems in place of Health Department	House Seniors, Mil Affairs, & Public Safety
HB 104	Investigate	Bather	Brownfields redevelopment program (volunteer clean-up).	House Nat. Resources & Env
HB 129	Oppose	Yonts	Raise speed limit to 70 on Interstates and parkwys, to 35 on residential.	Unassigned
HB 134	Support w/Amend	Fischer	Ban the use of MTBE in gasoline. Needs to be phased out to assure replacements are available.	Unassigned
HB 136	Strong Oppose	Adams	"Dumb growth." Allow a water utility to expand into another's geography if it has no formal plans to extend service within a year.	Unassigned
SR 1	Support	Shaughnessy	Creates task force to make a plan to protect Black Acre State Nature Preserve from surrounding development.	Sen. Ag & Natural Resources.
SB 1	Support	Williams	Limit Campaign Contributions to Gubernatorial races by companies doing business with the state.	Sen State & Local Governmnt
SB 2	Strong Oppose	Leeper	Brownfields redevelopment plan. Not protective enough.	Sen. Ag & Natural Resources.
SB 4	Support	Leeper	Brownfields redevelopment plan negotiated last session.	Withdrawn
SB 24	Support	Scorsone	Constitutional Amendment to lengthen voting hours by one hour. Companion to HB 77.	Sen State & Local Governmnt
SB 47	Monitor	Sanders	Extends economic assistance to secondary wood products industry.	Sen. Econ. Devel., Tourism & Labor
SB 48	Strong Oppose	Seum	Eliminate vehicle emission testing programs by 2003.	Sen. Ag. & Nat. Resources
SB 56	Oppose	Harris	Establish Anti-litter program, "KY-Clean" Board. Window dressing, better to fund Environmental Education Master Plan. Support HB 2.	Sen. Ag. & Nat. Resources
SB 60	Strong Oppose	Williams	Limits form & content of executive orders. Sunsets administrative bodies create by executive order. Limits the use of emergency regs to protect the environment.	Sen State & Local Governmnt

Special Legislative Reception for Representative Greg Stumbo and Senator Robert Stivers

Kentucky Conservation Committee is one of the invited organizations for the Family Health & Safety Legislative Reception and Consumer Safety Award Presentation. Two recipients will be honored at this event, Senator Robert Stivers and Representative Greg Stumbo. Among the sponsoring organizations are Kentucky Academy of Trial Attorneys, Kentucky Family Safety Foundation, Children's Alliance, Kentucky Action, Kentucky Youth Advocates, Mothers against Drunk Driving, and many others. The reception will be held on Thursday, February 8, 2001 at Capital Plaza Hotel in Frankfort, Kentucky. The event will last from 6:00 p.m. – 8:00 p.m. We encourage all of our members to attend this event as well as to participate that same day by coming to the Capitol for Health and Safety Lobby Day.

The Earth Needs a Friend in Frankfort

Please check all that apply:

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Name : _____ My state representative is: _____

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_____ Home phone: (_____) _____ - _____

Email address: _____ Fax number: (_____) _____ - _____

Ways I will help KCC:

Telephone Tree Writing letters Monitoring Interim Committees Lobbying during the session

Because one of KCC's main activities is influencing legislation, contributions are not tax deductible. Please send your check and membership information to: KCC, P.O. Box 1152, Frankfort, KY 40602. For more information call: 502-875-0909.

Internet Access of the Alert

Sierra Club graciously posts the Alert on their web site, go to <http://www.sierraclub.org/chapters/ky/>

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