

**217.380 Enforcement of food establishment law -- Abatement of unlawful conditions.**

- (1) The officials in charge of the enforcement of the pure food laws of this state, the secretary for health and family services, the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or manufacture for sale, or the storage, sale, distribution, or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.
- (2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the secretary for health and family services, or to the chief local health officer, as the case may be.
- (3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending a copy by certified mail, return receipt requested in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the secretary for health and family services. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the Commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 99, sec. 516, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 460, effective July 15, 1998. -- Amended 1980 Ky. Acts ch. 114, sec. 43, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(1); and ch. 315, sec. 30. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2060b-11.