

**505.030 Effect of former prosecution for same offense.**

When a prosecution is for a violation of the same statutory provision and is based upon the same facts as a former prosecution, it is barred by the former prosecution under the following circumstances:

- (1) The former prosecution resulted in:
  - (a) An acquittal, or
  - (b) A conviction which has not subsequently been set aside; or
- (2) The former prosecution resulted in a determination by the court that there was insufficient evidence to warrant a conviction; or
- (3) The former prosecution was terminated by a final order or judgment, which has not subsequently been set aside, and which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or
- (4) The former prosecution was improperly terminated after the first witness was sworn but before findings were rendered by a trier of fact. Termination under either of the following circumstances is not improper:
  - (a) The defendant expressly consents to the termination or by motion for mistrial or in some other manner waives his right to object to the termination; or
  - (b) The trial court, in exercise of its discretion, finds that the termination is manifestly necessary.

**Effective:** January 1, 1975

**History:** Created 1974 Ky. Acts ch. 406, sec. 45, effective January 1, 1975.