AN ACT relating to gang violence prevention and declaring an emergency.

WHEREAS, it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, or harm, caused by the criminal activities of gangs and their members; and

WHEREAS, in 2015, the Federal Bureau of Investigation's National Gang Center estimated that over 33,000 violent gangs with over 1.4 million members throughout the United States have continued to "proliferate, evolve, and develop criminal tradecrafts"; and

WHEREAS, the General Assembly finds that the citizens of Kentucky face a mounting crisis of gang-related violence perpetrated by gang members who threaten and terrorize peaceful citizens and children; and

WHEREAS, the General Assembly both recognizes and defends the right of Kentucky citizens to exercise the rights to freedom of speech and freedom of association as protected by the First Amendment of the United States Constitution; and

WHEREAS, strengthening law enforcement's ability to prevent and end the increasing gang-related violence in Kentucky will not infringe on the constitutional rights of the citizens of Kentucky and instead will facilitate an end to the increasing gang-related violence that present a clear and present danger to the Commonwealth;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

<u>As used in this chapter:</u>

<u>(1) "Criminal gang" means any alliance, network, conspiracy, or group that:</u>

<u>(a) Consists of three (3) or more persons who have any of the following in common:</u>

1 ***1. Name;***
2 ***2. Identifying hand signal or sign;***
3 ***3. Colors;***
4 ***4. Symbols;***
5 ***5. Geographical location; or***
6 ***6. Leader;***
7 ***(b) Has been identified or prosecuted as a gang within the Commonwealth, or***
8 ***another state or country; and***
9 ***(c) Has two (2) or more members who, individually or collectively, through its***
10 ***members or actions of its members engage in or have engaged in a pattern***
11 ***of criminal activity.***
12 ***"Criminal gang" does not include fraternal organizations, unions, corporations,***
13 ***associations, or similar entities, unless organized for the primary purpose of***
14 ***engaging in criminal activity; and***
15 ***(2) "Pattern of criminal gang activity" means acts performed by any member or***
16 ***members of a criminal gang for the commission, attempt, or solicitation of, or***
17 ***conspiracy to commit:***
18 ***(a) Two (2) or more felony offenses;***
19 ***(b) Three (3) or more of the misdemeanor offenses enumerated in Section 5 of***
20 ***this Act; or***
21 ***(c) A combination of at least:***
22 ***1. One (1) felony offense; and***
23 ***2. One (1) of the misdemeanor offenses enumerated in Section 5 of this***
24 ***Act;***
25 ***on separate occasions within a five (5) year period***.
26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO
27 READ AS FOLLOWS:

(1) Any person who is age eighteen (18) or older is guilty of criminal gang recruitment in the first degree if he or she:

(a) Solicits or entices any person under the age of fifteen (15) to join a criminal gang; and

(b) Requires as a condition of membership the commission of a crime.

Criminal gang recruitment in the first degree is a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

(2) Any person over the age of eighteen (18) is guilty of criminal gang recruitment in the second degree if he or she entices or solicits another person to join a criminal gang or intimidates or threatens another person because the other person:

(a) Refuses to join a criminal gang;

(b) Has withdrawn or is attempting to withdraw from a criminal gang; or

(c) Refuses to submit to a demand made by a criminal gang.

Criminal gang recruitment in the second degree is a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

(3) A person is guilty of criminal gang recruitment in the third degree when he or she intentionally encourages or solicits another person to join a criminal gang. Criminal gang recruitment in the third degree is a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

(4) It shall be no defense to prosecution under this section that the other person never intended to or did not commit the crime.

➔Section 3. KRS 506.120 is amended to read as follows:

(1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether

such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600;

(h) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of more than one (1) theft of retail merchandise with the intent to resell the stolen merchandise; or

(i) Acquire stolen retail merchandise for the purpose of reselling it where the person knew or should have known that the merchandise had been stolen.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony, unless the offense involves only the theft or acquisition of retail merchandise for the purpose of reselling it, in which case it shall be a Class C felony.

(3) As used in this section "criminal syndicate" means ***three (3)***[~~five (5)~~] or more persons, or, in cases of merchandise theft from a retail store for the purpose of reselling the stolen merchandise, two (2) or more persons, collaborating to promote or engage in ***any of the criminal acts provided in subsection (4)(a) to (f) of this***

section on a continuing basis.

(4) As used in this section, "criminal gang syndicate" means three (3) or more persons acting as a part of or members of a criminal gang and collaborating to promote or engage in any of the following on a continuing basis:

(a) Extortion or coercion in violation of KRS 514.080 or 521.020;

(b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529;

(c) Any theft offense as defined in KRS Chapter 514;

(d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;

(e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237; or

(f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

(5) Any person found to have been a member of a criminal gang syndicate while engaging in the criminal acts listed in subsection (4) of this section shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

➔Section 4. KRS 506.150 is amended to read as follows:

(1) To establish the existence of a "criminal gang"~~[as defined in KRS 506.140]~~, any competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including the following:

(a) Self-proclamation***, either at the time of arrest or any time before or thereafter***;

(b) A common name, insignia, flag, or means of recognition;

(c) Common identifying hand or body signs, signals, ***graffiti,*** or code;

(d) A common identifying mode, style, or color of dress;

(e) An identifying tattoo or body marking;

(f) Membership, age, or other qualifications;

(g) Creed of belief;

(h) An organizational or command structure, overt or covert;

(i) A de facto claim of territory or jurisdiction;

(j) ***Participation, whether present or under direction, in*** an initiation ritual;

(k) ***Directing or ordering participation in an initiation ritual;***

(l) A concentration or specialty;~~[or]~~

(m)~~[(l)]~~ A method of operation or criminal enterprise***;***

(n) Identification as a gang member by an informant;

(o) Identification as a criminal gang member by the alleged gang member's parent or guardian;

(p) Self-proclamation of association, whether for business or enjoyment, with criminal gang members;

(q) Identification through criminal gang publications, rosters, or bylaws;

(r) Participation in some form of verbal or written communication indicating the commission of a crime by the criminal gang;

(s) Participation in photos or social media interaction with criminal gang members; or

(t) Having committed or planning to commit a criminal activity to target a rival criminal gang.

(2) It is no defense to prosecution under ***Section 2, 3, 5, or 6 of this Act***~~[KRS 506.140]~~ that:

(a) One (1) or more members of the gang are not criminally responsible for the offense;

(b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;

(c) A person has been charged with, acquitted, or convicted of any offense under ***Section 2, 3, 5, or 6 of this Act***[~~KRS 506.140~~];

(d) The participants may not know each other's identity;

(e) The membership in the criminal gang may change from time to time; or

(f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.

(3) Once the initial combination of ***three (3)***[~~five (5)~~] or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as ***two (2)***[~~four (4)~~] or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal ***gang*** activity[~~ as defined in KRS 506.140~~] constituting a violation of ***Section 2, 3, 5, or 6 of this Act***[~~KRS 506.140~~].

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

(1) Upon motion by the prosecuting attorney, the court shall hold a hearing without a jury to determine if a defendant charged with any of the following offenses:

(a) Assault in the fourth degree under KRS 508.030;

(b) Menacing under KRS 508.050;

(c) Wanton endangerment in the second degree under KRS 508.070;

(d) Terroristic threatening in the third degree under KRS 508.080;

(e) Stalking in the second degree under KRS 508.150;

(f) Unlawful imprisonment in the second degree under KRS 509.030;

(g) Criminal coercion under KRS 509.080;

(h) Criminal mischief in the second degree under KRS 512.030;

(i) Criminal mischief in the third degree under KRS 512.040;

(j) Obstructing governmental operations under KRS 519.020;

(k) Resisting arrest under KRS 520.090;

(l) Riot in the second degree under KRS 525.030;

(m) Inciting to riot under KRS 525.040;

(n) Harassment under KRS 525.070;

(o) Harassing communications under KRS 525.080;

(p) The misdemeanor offense of carrying a concealed deadly weapon in violation of KRS 527.020; or

(q) Possession of a handgun by a minor as a first offense under KRS 527.100;

is or was a member of a criminal gang, acting for the purpose of benefiting, promoting, or furthering the interest of a criminal gang at the time he or she was alleged to have committed the offense.

(2) If:

(a) The court finds beyond a reasonable doubt that the defendant was:

1. A criminal gang member at the time of the commission of the alleged offense; and

2. Acting for the purpose of benefiting, promoting, or furthering the interest of a criminal gang or any individual member of a criminal gang at the time he or she was alleged to have committed the offense; and

(b) The defendant is subsequently convicted of the offense and sentenced to a term of imprisonment;

then the defendant shall not be released for a minimum of seventy-six (76) to ninety (90) days of the sentence imposed if the offense he or she is convicted of is classified as a Class B misdemeanor, or for a minimum of three hundred eleven (311) to three hundred sixty-five (365) days if the offense he or she is convicted of is classified as a Class A misdemeanor.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

Other provisions of law notwithstanding, any person who:

(1) Is convicted of an offense classified as a felony under any provision of the Kentucky Revised Statutes and for which the commission of the felony or felonies could or did place a member of the public at risk of physical injury, serious physical injury, or death; and

(2) At the time of the commission of the offense or offenses was a member of a criminal gang and acting for the purpose of benefiting, promoting, or furthering the interests of a criminal gang or any individual member of a criminal gang;

shall be penalized one (1) class more severely than provided in the penalty provision pertaining to that felony offense, unless the reclassification would move the offense to a capital offense, and shall not be released on parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

(1) If a person alleges that he or she was a victim of a criminal act by:

(a) An organization, which at the time the incident or incidents were alleged to take place was a criminal gang; or

(b) A person, who at time the incident or incidents were alleged to take place was a member of a criminal gang;

that person may bring a cause of action against the defendant or defendants for damages.

(2) In an action brought under this section:

(a) If the plaintiff prevails, he or she shall be entitled to reasonable costs and attorney's fees;

(b) Any award of nominal damages shall support an award of attorney's fees

and costs to the prevailing party; and

(c) Punitive damages as well as compensatory damages shall be awardable.

(3) The provisions of this section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or of any statutory or common law right of action but shall be construed as ancillary and supplemental thereto.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

All profits, proceeds, and instrumentalities forfeited by, seized from, or intended to be used by a criminal gang:

(1) Alleged to be or suspected of having been used to facilitate the commission of a crime by a criminal gang or gang member;

(2) Used as instrumentalities of criminal gang recruitment; or

(3) Alleged to be or suspected of being the proceeds of criminal gang activity;

shall be subject to forfeiture pursuant to Section 9 of this Act.

➔Section 9. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter ***or Section 8 of this Act*** shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

(4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:

(a) Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and

(b) Fifteen percent (15%) shall be paid to the Office of the Attorney General or, in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

(5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.

(6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one

(1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.

(8) (a) Other provisions of this section notwithstanding and subject to the limitations of paragraph (b) of this subsection, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(b) Any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter and which has been determined by a state or local law enforcement agency to be contaminated with methamphetamine as defined by KRS 218A.1431 shall not be used, resold, or salvaged for parts, but instead shall be destroyed or salvaged only for scrap metal. Any vehicle which is forfeited pursuant to this chapter and has only transported prepackaged materials or products, precursors, or any other materials which have not been subjected to extraction either directly or indirectly from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis extraction, shall not be deemed contaminated with methamphetamine under this section.

(9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property

forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

➔Section 10. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the

felony for which he now stands convicted; or

2. Was on probation, parole, postincarceration supervision, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, postincarceration supervision, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies, or one (1) or more felony sex crimes against a minor as defined in KRS 17.500, and now stands convicted of any one (1) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous

felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, postincarceration supervision, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, postincarceration supervision, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony

offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, or if the person was previously convicted of one (1) or more sex crimes committed against a minor as defined in KRS 17.500 and presently stands convicted of a subsequent sex crime, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than fifty (50) years, or life imprisonment, or life imprisonment without parole for twenty-five (25) years for a sex crime committed against a minor;

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person or a sex crime as that term is defined in KRS 17.500, in which case, probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years, unless another sentencing scheme applies. A violent offender who is found to be a persistent felony

offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.

(8) A conviction, plea of guilty, or Alford plea under KRS 218A.1415 shall not trigger the application of this section, regardless of the number or type of prior felony convictions that may have been entered against the defendant. A conviction, plea of guilty, or Alford plea under KRS 218A.1415 may be used as a prior felony offense allowing this section to be applied if he or she is subsequently convicted of a different felony offense.

(9) The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.

(10) (a) Except as provided in paragraph (b) of this subsection, this section shall not apply to a person convicted of a criminal offense if the penalty for that offense was increased from a misdemeanor to a felony, or from a lower felony classification to a higher felony classification, because the conviction constituted a second or subsequent violation of that offense.

(b) This subsection shall not prohibit the application of this section to a person convicted of:

1. A felony offense arising out of KRS 189A.010, 189A.090,~~[506.140,]~~ 508.032, 508.140, or 510.015; or

2. Any other felony offense if the penalty was not enhanced to a higher level because the Commonwealth elected to prosecute the person as a first-time violator of that offense.

➔Section 11. The following KRS section is repealed:

506.140 Criminal gang recruitment -- Definitions for chapter.

➔Section 12. State and local law enforcement agencies throughout Kentucky are encouraged to develop a comprehensive statewide gang database to facilitate the exchange of criminal gang-related information between law enforcement agencies within

and without the state, including information related to suspected criminal gang members, gang-related incidents, and other facts pertinent to the lawful investigation and prevention of gang-related violence within the state of Kentucky.

➔Section 13. This Act shall be known as the Gang Violence Prevention Act.

➔Section 14. Whereas criminal gangs are a pervasive and growing problem nationwide and are an emerging crisis within the state of Kentucky, and a delay in the implementation of this Act would severely hinder the safety of the citizens of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.