

The Kentucky Revised Statutes Kentucky Cave Laws

433.871 Definitions.

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- (1) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with "cavern."
- (2) "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.
- (3) "Gate" means any structure or device situated so as to limit or prohibit access or entry to any cave.
- (4) "Person" or "persons" means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- (5) "Owner" means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.
- (6) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.
- (7) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork, and pendants.
- (8) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.
- (9) "Cave life" means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.
- (10) "Troglotic" means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.
- (11) "Trogliphilic" means or refers to any form of cave life which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 1, effective July 15, 1988.

433.873 Wrongful disturbance or damage to cave surfaces or material found therein.

- (1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to willfully and knowingly:
 - (a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, notwithstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.
 - (b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
 - (c) Place any gate or other obstruction which may restrict the movement of air or animals through such device.
 - (d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter.
 - (e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.
- (2) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 2, effective July 15, 1988.

433.875 Unlawful dumping, disposal or burning within cave.

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave.

It shall also be unlawful to burn within a cave any material which produces any smoke or gas which is harmful to any naturally occurring organisms in the cave, except acetylene gas produced by carbide lamps.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 3, effective July 15, 1988.

433.877 Unlawful removal or disturbance of naturally occurring organisms in cave.

(1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state nongame biologist.

(2) It shall also be unlawful to collect any form of troglobitic or troglophilic cave life for commercial sale, whether or not a profit is gained by such sale.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 4, effective July 15, 1988.

433.879 Excavation permits -- Requirements -- Supervision by state archaeologist and Kentucky Heritage Council.

(1) In addition to the written permission of the owner required by KRS 433.873(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric or historic feature of any cave. The state archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.

(2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky Heritage Council and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.

(3) A person applying for a permit pursuant to this section shall:

(a) Have knowledge of archaeology, paleontology or history as qualified in subsection (1) of this section;

(b) Provide a detailed statement to the state archaeologist giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;

(c) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;

(d) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and

(e) Carry the permit while exercising the privileges granted.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 5, effective July 15, 1988.

433.881 Unlawful sale of speleothems.

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 6, effective July 15, 1988.

433.883 Cave owner or his agent not to be held liable.

(1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.

(2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 168, sec. 7, effective July 15, 1988.