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Kentucky Transportation Cabinet
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Frankfort, KY 40622

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May 30, 2024

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Kentucky Transportation Cabinet,

In a letter dated May 17, 2024 The Kentucky Transportation Cabinet notified me that they will cancel my vehicle registration because THEY could not match my motorcycle VIN to an insurance policy in THEIR system.

This law has no “fundamental fairness” to it, and is better suited to a Corporatocracy than to a Commonwealth since it heavily punishes those that have a contract disagreement with insurance companies.

I strongly object to Kentucky Revised Statute 186A.040 Section (2)(a). It is clearly unconstitutional on several grounds that I detail below.

The Kentucky State Constitution states, “all laws contrary thereto, or contrary to this Constitution, shall be void.”

Violation Of Separation of Powers

KRS186A.040 (2)(a) sets up a situation where an executive department, The Kentucky Transportation Cabinet, exercises judicial branch powers to declare someone guilty of KRS 304.39-080 (Security covering motor vehicle). Under our form of government, these powers are reserved for the judiciary branch of government. The Kentucky State Constitution, Section 27 and 28 state that an executive branch department cannot exercise these powers.

Section 27 of the Kentucky State Constitution clearly states that “The powers of the government of the Commonwealth of Kentucky shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.” And Section 28 makes it clear that an executive department cannot exercise the powers of another branch, “No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.”

KRS 186A.040 (2)(b) establishes that not having insurance coverage on a licensed vehicle is a criminal offense, which an executive agency cannot arbitrarily punish a person for. Nowhere in the Kentucky Constitution does it allow the Executive branch to operate as the judicial branch. Cases have found that this issue invalidates laws as unconstitutional. An example is O'Bryan v. Hedgespeth 892 S.W.2d 571 (1995).

Taking Without Due Process of Law

I lawfully obtained the registration for the vehicle in question. Without that registration, I may not legally use my vehicle for the functions I purchased it for, which is to drive on public roads. It also changes the terms of the contract under which I registered my vehicle. Canceling my vehicle's registration is a "regulatory taking" of that property. State law clearly states that to deprive me of my right to use my property requires a public trial.

The Kentucky Transportation Cabinet's taking of my lawfully obtained and paid registration violates my right to freely use and enjoy my property. And they are threatening to do it without due process of law.

If The Transportation Cabinet thinks I violated the law, they should press charges in the judicial system. And the law allows for that in KRS 186A.040 (2)(b). At that point they can present their evidence that I have violated the law. Until they do that, under the law I am innocent. The government shall not revoke the right of an innocent person to use their property.

Arbitrary Power

The idea that I am to lose use and enjoyment of my property with absolutely no mens rea, criminal action, or inaction on my part is astounding. There should be no situation under law where free use and enjoyment of personal property is taken arbitrarily by a Kentucky State executive agency. There is no check or balance on this power.

The Kentucky Transportation Cabinet based their threat of arbitrary action on Kentucky Revised Statute Section 186A.040 (2)(a). Arbitrary power over the property of citizens is illegal under Section 2 of the Kentucky Constitution. It states, "Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority."

Innocent Until Proven Guilty

The Kentucky legal system requires that all defendants are presumed to be innocent. KRS 186A.040 (2)(a) turns that presumption on its head and allows The Transportation Cabinet to accuse anyone of a criminal offense, find them guilty, and penalize them. A failure to make a database match in the state database does not meet the standard of "beyond a reasonable doubt".

Double Jeopardy

KRS 186A.040 (2) section a and b establish processes to punish the same crime twice. The first punishment is the taking of the paid registration. The b section requires the county attorney to prosecute the owner for the same offense. But a penalty has already been extracted from the owner for this offense. So KRS 186A.040 (2)(b) is double jeopardy. Either the crime is punished by executive action, or in the courts. It should not be both.

Cruel And Unusual

The penalties for violating KRS 304.39 are cruel and unusual. A penalty of \$500 to \$1,000 fine and up to 90 days in jail for having an uninsured motorcycle sitting in my garage and never driven on the public roads truly is cruel and unusual.

Compare that to the penalty for driving under the influence KRS 189A.010 (5)(a). For a first time offense the penalty is a fine of \$200 to \$500 and no more than 30 days in jail. So the Kentucky government penalizes people more for not being a customer of an insurance company than for driving drunk and risking people's lives. Up to three times the imprisonment and twice the fine! Which crime is worse, a paperwork violation and not being a customer of an insurance company, or driving drunk?

Who is the victim here? The insurance company? What harm have I done that deserves deprivation of my liberty? The accusation is truly just a paperwork violation. No one has been harmed or threatened except for me.

If you throw me in jail for 90 days I will be unable to feed my farm animals and pets. I will be unable to care for my land and crops. I will be unable to pay my bills. My house will be unprotected and open for burglary. This cruel punishment will only lead to actual crime and suffering.

I am a volunteer firefighter with Red Lick VFD in Madison County. Each year I freely give over \$50,000 worth of valuable time to the people of Madison County, and risk my life. If you cause me to be fined and or cruelly imprisoned for this victimless paperwork "offense" I will be unable to continue volunteering. So the state may gain \$1,000 in penalties, but they will be losing at least 10 years of my volunteer effort worth over half a million dollars.

To be clear, I am objecting to section KRS 186A.040 (2)(a) on the basic legal and constitutional issues above. Because of these violations of superior laws, KRS 186A.040 (2)(a) has no power.

I have always worked to have the required insurance on every vehicle I have owned. The motorcycle has not been on public roads this calendar year. It has remained in my garage. The insurance policy lapsed due to my insurance agent not submitting the paperwork that I emailed to her. I did not know that the policy had lapsed until I got your letter. I have recently changed agents due to this and worked to correct this issue.

This is a contract issue between my insurance company and myself. It is a civil matter, not an executive government department matter. Threatening to take property, fine, and jail someone over a contractual misunderstanding is tyrannical. This law is abhorrent and needs to be struck from the KRS.

Sincerely,

Elliott Stoddard