

What you need to know about SB 178:

Legislation is hard to understand—and that's a problem. It's easy for a bill to sound like it's doing something good for our families, our neighbors, our state, while the actual text tells a different story. We're breaking down the complex language into plain talk so you can see the real-world implications of **SB 178.**

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An Overview of SB 178:



Makes federal *minimum* standards the *maximum* Kentucky can adopt. Turns federal "floor" standards into a "ceiling," banning KY from passing stronger protections for our own air and water. If federal standards do not exist, the bill imposes new proof requirements that make it harder to establish new protections.



Waits for People to Get Sick: Requires proof of present, diagnosable human illness before human health protections can be adopted. KY would need to demonstrate a direct causal link between exposure to a pollutant and existing human disease before acting.



Redefines How Scientific Evidence Can Used to Block Action: The bill invokes “best available science” but narrowly defines acceptable evidence and imposes new thresholds that could make preventive regulation more difficult. Kentucky agencies already rely on peer-reviewed science, federal research, and risk assessment when adopting safeguards.

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An Overview of SB 178:



Leaves Us Vulnerable to New Toxins: Creates massive red tape that prevents KY from responding quickly to emerging chemical threats.



Abandons Prevention for Reaction: Longstanding public health practice focuses on reducing risk before harm occurs. Stops KY from reducing risks early, forcing us to wait for confirmed harm before we can protect the public.



Increases delays and lawsuits: New subjective scientific and technical thresholds make it easier to challenge and stall public health and environmental protections. This uncertainty affects not only regulators and communities but also permit holders who rely on predictable standards.

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SB 178 Section-by-Section Analysis

Federal Ceiling on Protections BILL LANGUAGE: *"Any administrative regulation related to setting an applicable environmental requirement shall not be more stringent or extensive in scope, coverage, or effect than any federal law or regulation regarding the same or a substantially similar topic."*

PLAIN-LANGUAGE TRANSLATION

- **Cap state protections:** Kentucky can no longer pass environmental or health laws that are stricter than federal standards.
- **Blocks local responses:** The state cannot independently address new contaminants or local risks if federal rules are weak or missing.
- **Removes state flexibility**: Reverses decades of practice where Kentucky tailored safeguards to its specific geography and communities.
- **Forces minimum standards:** State agencies are tied to federal minimums, which often lag behind the latest science and regional needs.
- **Narrows safety tools:** Limits the ways Kentucky can protect its own waterways and residents from documented local threats.



What this means for Kentuckians:

Federal minimum standards would become Kentucky's maximum protections.

If federal rules weaken, lag behind emerging contaminants, or fail to reflect Kentucky conditions, the Commonwealth would be legally barred from adopting stronger safeguards. Because "substantially similar" is undefined, it could be interpreted broadly, creating uncertainty and chilling stronger state action even where Kentucky's risks or conditions differ.

SB 178 Section-by-Section Analysis

"Best Available Science" and Evidence Standards BILL LANGUAGE:
"Best available science" means science that is reliable, unbiased, subject to independent verification... and based on scientifically defensible quality-assured supporting studies... including site-specific studies, peer-reviewed publications, or external peer-reviewed federal reports. Any administrative regulation... shall not be proposed or promulgated unless all scientific and technical information relied upon... is based upon the best available science and the weight of scientific evidence...

PLAIN-LANGUAGE TRANSLATION

- **Adds legal hurdles:** Instead of improving science, the bill creates new legal traps that make acting on research harder.
- **Narrows evidence use:** The bill's definitions of "best science" actually restrict how state agencies can use data to pass protections.
- **Restricts new research:** Rigid new standards could block the use of emerging studies or precautionary findings in public health decisions.
- **Demands proof of harm:** Kentucky would be forced to wait for confirmed damage before acting on credible scientific warnings.
- **Invites lawsuits:** The complex scientific criteria create more opportunities for legal challenges to stall or block new safety rules.
- **Scientific Foundations of State Safeguards:** Kentucky agencies already rely on peer-reviewed science, federal research, and risk assessment when adopting safeguards.



What this means for Kentuckians:

It uses the language of scientific rigor to restrict preventive action.

SB 178 doesn't raise the bar for science, it raises the bar for action while harm is still accumulating. To take just one example, PFAS contamination is an evolving and widely recognized threat to drinking water. By imposing rigid evidentiary thresholds for new protections, SB 178 would make it more difficult for Kentucky to adopt forward-looking safeguards as scientific understanding of PFAS risks continues to develop.

SB 178 Section-by-Section Analysis

"Manifest Bodily Harm Requirement" BILL LANGUAGE:

"Manifest bodily harm" means a physical disease or injury that is presently existing and diagnosable... and not based solely on an increased risk of disease....The best available science... shall establish a direct causal link between exposure... and manifest bodily harm in humans...

PLAIN-LANGUAGE TRANSLATION

- **Reactive vs. Proactive:** This shifts the standard from prevention (reducing risk before sickness occurs) to reaction (waiting for documented disease to manifest).
- **Departure from Scientific Norms:** The requirement ignores traditional public health practices like risk assessment and toxicology, which aim to limit exposure based on scientific evidence of potential harm.
- **Higher Bar for Protection:** Factors like elevated cancer risks, toxic exposure, or developmental threats would no longer be enough to justify new regulations on their own.
- **Impact on Emerging Threats:** The state's ability to address new contaminants or cumulative exposures would be severely limited, as these often show clear risk long before widespread illness can be "conclusively demonstrated."
- **Regulatory Constraint:** Kentucky would face significant hurdles in adopting safeguards designed to stop long-term health impacts before they become permanent or widespread



What this means for Kentuckians:

It would demand courtroom-level proof in a public health setting.

Most environmentally linked cancers and chronic diseases often cannot be confidently attributed to a single pollutant in an individual case. For instance, it took 40 years to link smoking to lung cancer. Modern public health protections rely on identifying elevated risk and reducing exposure before illness becomes widespread. Under SB 178, increased cancer risk, toxic contamination in drinking water, or documented exposure would not be enough unless present, diagnosable illness can be directly tied to a specific pollutant.

SB 178 Section-by-Section Analysis

Technological Achievability Requirement BILL LANGUAGE:
...the administrative regulation is technologically achievable at an applicable scale.

PLAIN-LANGUAGE TRANSLATION

- **Shift to a "Causal Link" Requirement:** The bill requires Kentucky agencies to prove a direct causal link between a pollutant and an existing, diagnosable illness before adopting new health protections.
- **New Legal Prerequisite:** The bill makes "technological achievability at an applicable scale" a mandatory legal requirement for any new environmental or public health protection.
- **Vague Definitions:** SB 178 does not provide clear guidance or definitions for "achievable," "applicable scale," or who must be able to achieve it, likely leading to legal disputes.
- **Technology-Limited Standards:** Regulators would be prohibited from setting higher pollution-reduction standards unless they can prove the necessary technology is already widely available and fully deployable.
- **Stifles Innovation:** Instead of using regulations to drive the development of better pollution-control methods over time, the bill requires the solutions to exist first.
- **Reactive Policy:** This approach limits Kentucky's ability to be forward-looking or proactive when responding to emerging environmental threats.
- **Federal Alignment:** Generally, the bill prohibits state environmental regulations from being more stringent or extensive than federal law; where no federal rule exists, these new scientific and technological "achievability" burdens apply

SB 178 Section-by-Section Analysis

Scope and Applicability BILL LANGUAGE:
"Applicable environmental requirement" means an environmental requirement or regulatory standard imposed by an administrative regulation… promulgated under the statutory authority of KRS Chapters 39E, 109, 146, 151, 211, 224, or 350.

PLAIN-LANGUAGE TRANSLATION

- **Shift to a "Causal Link" Requirement:** The bill requires Kentucky agencies to prove a direct causal link between a pollutant and an existing, diagnosable illness before adopting new health protections.
- **Broad Statutory Reach:** SB 178 applies broadly across multiple areas of Kentucky law governing environmental protection and public health. The referenced statutory chapters include water quality, waste management, mining, public health protections, and related environmental programs.
- **Comprehensive Regulatory Impact:** In practical terms, the bill would not be limited to a single issue or contaminant. Instead, it would affect how Kentucky adopts or updates regulations across a wide range of environmental and health-related programs. This includes rules related to drinking water protection, surface water quality, groundwater safeguards, waste handling, and other core environmental protections.
- **Future Policy Framework:** Because the bill applies to regulations proposed or adopted after its effective date, it would shape how Kentucky responds to future environmental and public health challenges across these areas

What SB 178 Would Mean in Practice for Kentucky



SB 178 would significantly narrow the tools Kentucky uses to protect drinking water, public health, and environmental quality.



If enacted, the bill would constrain Kentucky's ability to respond independently to contamination events, emerging pollutants, or evolving scientific understanding of environmental risk. Where federal standards exist, the state would be prohibited from adopting stronger protections tailored to Kentucky's specific conditions. Where federal standards do not yet exist, the state would face heightened scientific and technological barriers before acting.



In practical terms, this could affect how Kentucky addresses contaminants such as PFAS in drinking water, responds to cumulative pollution in vulnerable communities, or updates standards based on new scientific findings. Public health protections that traditionally rely on reducing exposure when credible risk is identified could be delayed unless regulators can meet the bill's stricter evidentiary requirements

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By creating new and subjective evidentiary thresholds, SB 178 could increase litigation and regulatory uncertainty for permit holders and regulated industries, as nearly any new or updated protection could be challenged on scientific or technological grounds. B y establishing new statutory criteria for scientific sufficiency and technological feasibility, SB 178 creates additional legal grounds on which new or updated protections can be challenged. Embedding contested scientific and technical judgments as statutory standards, SB 178 increases the number of questions that can be challenged in court and incentives to challenge new safeguards.



Because many environmentally linked diseases — including certain cancers and chronic conditions — develop over long periods and cannot be traced to a single exposure in a single individual, the requirement to demonstrate present, diagnosable human injury could limit preventive safeguards. Instead of acting when elevated risk is identified, the state could be constrained from acting until harm is more clearly established.

What SB 178 Would Mean in Practice for Kentucky



These provisions force a shift in Kentucky from a system designed to reduce risk before damage occurs to one that requires higher levels of proof before new protections can move forward. Taken together, these provisions would fundamentally change how Kentucky protects public health and the environment. SB 178 would limit when and how the state can act to prevent harm, reduce its flexibility to respond to local risks, and shift key decisions about protections toward federal standards and the courts.



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Kentucky Waterways Alliance vehemently condemns this reckless legislation that harms both the environment and the health of all Kentuckians.