

CHAPTER 165

(HB 133)

AN ACT relating to transportation.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for a school bus endorsement shall satisfy the following requirements:*
 - (a) *Qualify for a passenger vehicle endorsement by passing the knowledge and skills test for obtaining a passenger vehicle endorsement;*
 - (b) *Demonstrate knowledge of loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and safety devices required for school buses by state or federal law or regulation;*
 - (c) *Demonstrate knowledge of emergency exits and procedures for safely evacuating passengers in an emergency; and*
 - (d) *Demonstrate knowledge of state and federal laws and regulations related to safely traversing highway rail grade crossings.*
- (2) *An applicant for a school bus endorsement shall take a driving skills test in a school bus of the same vehicle group as the school bus the applicant will drive.*
- (3) *Prior to October 1, 2005, the driving skills test required for an applicant for a school bus endorsement may be waived by the cabinet for an applicant who:*
 - (a) *Is currently licensed;*
 - (b) *Has experience driving a school bus;*
 - (c) *Has a good driving record;*
 - (d) *Certifies and has state verification that, during the two (2) year period immediately prior to applying for a school bus endorsement, the applicant:*
 1. *Held a valid commercial driver's license with a passenger vehicle endorsement to operate a school bus representative of the group of bus the applicant will be driving;*
 2. *Has not had his or her operator's license or commercial driver's license suspended, revoked, or canceled, or been disqualified from operating a commercial motor vehicle;*
 3. *Has not been convicted of any of the disqualifying offenses in 49 C.F.R. sec. 383.51(b) while operating a commercial motor vehicle, or of any offense in a noncommercial vehicle that would be disqualifying under 49 C.F.R. sec. 383.51(b) if committed in a commercial motor vehicle;*
 4. *Has not had more than one (1) conviction of any of the serious traffic violations defined in 49 C.F.R. sec. 383.5 while operating any type of motor vehicle;*

5. *Has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a traffic accident;*
 6. *Has not been convicted of any motor vehicle traffic violation that resulted in an accident; and*
 7. *Has been regularly employed as a school bus driver, has operated a school bus representative of the group the applicant seeks to drive, and provides evidence of such employment.*
- (4) *On and after October 1, 2005, all applicants for a school bus endorsement shall be required to take a driving skills test.*

Section 2. KRS 186.018 is amended to read as follows:

- (1) For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. Except as provided in subsection (2) of this section, the Transportation Cabinet shall destroy, and shall not maintain, records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.
- (2) The Transportation Cabinet shall not release information on the driving history record of a person under the age of twenty-one (21) whose operator license has been suspended pursuant to KRS 189A.010(6). The cabinet shall destroy, and shall not maintain, the record of the suspension of a person's operator's license if the license was suspended pursuant to KRS 189A.010(6), within five (5) working days of the person's operator's license being reinstated. *This subsection shall not apply to a person who holds, or is required to hold, a commercial driver's license.*
- (3) The cabinet shall charge a fee of three dollars (\$3) for any driving history record, ten cents (\$0.10) of which shall be deposited in a special account within the road fund to be used exclusively by the Transportation Cabinet for the state driver education program as designated in KRS 186.535.

Section 3. KRS 186.570 is amended to read as follows:

- (1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:
 - (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.
 - (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.
 - (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to

provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

- (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.
 - (e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.
 - (f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.
 - (g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.
 - (i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.
 - (j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
- (2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.
- (3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.
- (4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person

by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

- (5) (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:
1. The conviction causing the suspension or revocation is more than five (5) years old;
 2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
 3. The license holder complies with the provisions of KRS 186.442.
- (b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.
- (c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.
- (d) This subsection shall not apply to a commercial driver's license.
- (6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a *person who holds, or is required to hold*, commercial driver's license.
- (7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.
- (8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 4. KRS 186.574 is amended to read as follows:

- (1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The

Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

- (2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court. ***The Transportation Cabinet shall not assess points against a person who satisfactorily completes state traffic school. However, if the person referred to state traffic school holds or is required to hold a commercial driver's license, the underlying offense shall appear on the person's driving history record.***
- (3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.
- (4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars (\$15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.
- (5) The following procedures shall govern persons attending state traffic school pursuant to this section:
 - (a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;
 - (b) Except as provided in KRS 189.990(27), a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;
 - (c) Except as provided in KRS 189.990(27), a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;
 - (d) Except as provided in KRS 189.990(27), a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

- (e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

Section 5. KRS 281A.010 is amended to read as follows:

- (1) "Alcohol" means:
 - (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or
 - (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
 - (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.
- (2) "Alcohol concentration" means:
 - (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
 - (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
 - (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
- (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
- (4) "Commerce" means:
 - (a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and
 - (b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.
- (5) "Commercial driver's license," or CDL, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.
- (6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.
- (8) "Commercial motor vehicle," or CMV, means a motor vehicle or combination motor vehicle used in commerce that is:

- (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
 - (b) Designed to transport sixteen (16) or more passengers, including the driver;
 - (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
 - (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.
- (9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.
- (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, ***a plea of guilty or Alford plea entered and accepted by the court***, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (11) "Disqualification" means ***any of the following actions:***
- (a) ***The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;***
 - (b) ***Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or***
 - (c) ***A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391***~~***[a withdrawal, cancellation, suspension, or revocation of the privilege to drive a commercial motor vehicle].***~~
- (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- (13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- (14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.
- (15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.

- (16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- (17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for *a term exceeding*~~[at least]~~ one (1) year~~[in a correctional facility]~~.
- (18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. ***In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.***
- (19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
- (20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation ~~Law~~~~[Act]~~, 49 U.S.C. *sec. 5101*~~[secs. 1801]~~ et seq.
- (21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
- (22) ***"Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.***
- (23) "Moped" shall have the same meaning as in KRS 186.010(5).
- ~~(24)~~~~(23)~~ "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.
- ~~(25)~~~~(24)~~ "NDR" means the national driver register.
- ~~(26)~~~~(25)~~ "Out-of-service order" means a ***declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria***~~[temporary prohibition against driving a commercial motor vehicle]~~.
- ~~(27)~~~~(26)~~ "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
- ~~(28)~~~~(27)~~ "School bus" means a vehicle that meets the specification of KRS 156.153 ***used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier***~~[and is designed to transport sixteen (16) or more passengers including the driver]~~.
- ~~(29)~~~~(28)~~ "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;

- (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
- (c) Improper or erratic traffic lane changes;
- (d) Following the vehicle ahead too closely;
- (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident; or
- (f) *Driving a commercial motor vehicle without a CDL;*
- (g) *Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;*
- (h) *Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or*
- (i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.

~~(30)~~~~(29)~~ "State" means a state of the United States and the District of Columbia.

~~(31)~~~~(30)~~ "State police" means the Department of State Police of the Commonwealth of Kentucky.

Section 6. KRS 281A.140 is amended to read as follows:

(1) The application for a commercial driver's license or commercial driver's instruction permit shall include the following information:

- (a) The full legal name, including nicknames, and present Kentucky resident address of the applicant. If the applicant's mailing address is different from the resident address, the mailing address shall also be included. If the applicant is not a resident, the application shall include the person's resident address in the person's state of domicile and the address of the Kentucky driver training school where the applicant is currently enrolled;
- (b) A physical description of the applicant including sex, height, weight, eye color, and race;
- (c) The applicant's date of birth;
- (d) The applicant's Social Security number;
- (e) The applicant's signature;
- (f) Certifications including those required by Title 49, Code of Federal Regulations, *sec.*~~Part~~ 383.71, **383.73, and 384.206**, ~~paragraph (a)~~ as adopted by the cabinet;
- (g) A consent to release driving record information;
- (h) A valid Class D operator's license issued pursuant to KRS 186.412;
- (i) A birth certificate if the applicant does not hold a valid operator's license at the time of application;

- (j) *The name of every jurisdiction in which*~~[A statement that]~~ the applicant has previously been licensed *to drive any type of motor vehicle during the ten (10) year period immediately preceding the date of the application*~~[as an operator in another state, if applicable]~~; and
- (k) Any other information required by the cabinet.
- (2) The cabinet or state police may require any other information needed in order to process the application.
- (3) When the holder of a commercial driver's license changes his or her name or residence, the information shall be reported to the cabinet within ten (10) days. The holder of a Class A, B, or C license shall make an application for a duplicate license within thirty (30) days of changing his name or address.
- (4) Any person whose commercial driver's license has been legitimately lost or destroyed shall make an application for a duplicate:
- (a) A person applying for the first duplicate within the time period for which the original license was issued, shall apply in the office of the circuit clerk in the county where the person resides. The person shall provide the clerk with proof of the person's identity and a notarized affidavit with a raised seal explaining in detail the loss or destruction of the original license.
- (b) A person applying for a second or subsequent duplicate within the time period for which the original license was issued, shall apply to the Transportation Cabinet in Frankfort or a Transportation Cabinet field office. The person shall provide the cabinet with proof of the person's identity and a notarized affidavit with a raised seal explaining in detail the loss or destruction of the previous duplicate issued. The Transportation Cabinet shall, within thirty (30) days of receipt of the application, review the person's proof of identity and affidavit and determine if the person will be issued a duplicate.
- (5) A person who is a resident of this state shall not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (6) Any person who knowingly falsifies information or certifications required to obtain a commercial driver's license, a commercial driver's license permit, or a duplicate commercial driver's license subsequent to an administrative hearing conducted in accordance with KRS 186.570, shall be subject to suspension, revocation, or cancellation of his commercial driver's license for a period of at least sixty (60) consecutive days.

Section 7. KRS 281A.170 is amended to read as follows:

- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
- (a) The name and present resident address of the licensee;
- (b) The licensee's color photograph;
- (c) A physical description of the licensee including sex, height, weight, and eye color;
- (d) The licensee's date of birth;
- (e) The licensee's signature;

- (f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - (g) The name of this state;
 - (h) The dates between which the license is valid; and
 - (i) Any other information required by the cabinet, except for a person's Social Security number.
- (2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
- (a) Classifications:
- 1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 - 2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 - 3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
 - a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
 - 4. Class D - All other vehicles not listed in any other class.
 - 5. Class E - Moped only.
 - 6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
- (b) Endorsements:
- 1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
 - 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 - 3. "P" - Authorizes operation of vehicles carrying passengers.
 - 4. "N" - Authorizes operation of tank vehicles.

5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
 7. **"S" - Authorizes operation of school buses.**
- (c) Restrictions:
1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.
 2. "I" - Restricts the driver to Kentucky intrastate commerce driving.
 3. "S" - Restricts the driver to school buses, church buses, buses operated by a mass transit authority created under the provisions of KRS Chapter 96A, buses operated under a nonprofit bus certificate established pursuant to KRS 281.619, and fixed route buses operated by a public entity pursuant to the provisions of KRS Chapter 281.
 4. "L" - Shall not include a Class "A" bus.
 5. "J" - Shall not include a Class "A" or "B" bus.
 6. "O" - Shall not include tractor, semitrailer style vehicles.
 7. "Z" - Exempt intracity zones for commercial vehicles.
 8. **"0-9"["1-13"]** - Other restrictions.
 9. **"A"["14"]** - Restricts the driver to operation of vehicles equipped with an automatic transmission because the person conducted the required skills test in a commercial vehicle equipped with an automatic transmission. A person wanting to remove this restriction in order to operate a vehicle with a manual transmission shall be required to successfully complete a skills test while operating a commercial vehicle equipped with a manual transmission.
- (3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
 - (4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in four (4) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.
 - (5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.
 - (6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

Section 8. KRS 281A.190 is amended to read as follows:

- (1) A person *who holds or is required to hold a CDL* shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:
 - (a) Driving *or being in physical control of* a ~~commercial~~ motor vehicle under the influence of alcohol or a controlled substance;
 - (b) Driving *or being in physical control of* a ~~commercial~~ motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;
 - (c) Leaving the scene of an accident involving a ~~commercial~~ motor vehicle driven by ~~a~~*the* person *who holds or is required to hold a CDL*;
 - (d) Using a ~~commercial~~ motor vehicle in the commission of any felony listed in KRS 186.560; ~~or~~
 - (e) Refusing to submit to testing as required by KRS 281A.220 *when driving a motor vehicle*;
 - (f) *Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or*
 - (g) *Causing a fatality through negligent or criminal operation of a commercial motor vehicle.*
- (2) A person *who holds or is required to hold a CDL* shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal *Motor Carrier Safety* ~~Highway~~ Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.
- (3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person *who holds or is required to hold a CDL* shall be disqualified for a period of three (3) years.
- (4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.
- (5) A person *who holds or is required to hold a CDL* shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- (6) A person *who holds or is required to hold a CDL* shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

- (7) A person *who holds or is required to hold a CDL* shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.
- (8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS ~~189A.107~~~~[186.570]~~, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.
- (9) *If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:*
- (a) *Sixty (60) days for the first offense;*
 - (b) *One hundred twenty (120) days for the second offense within a three (3) year period; and*
 - (c) *One (1) year for the third or subsequent offense within a three (3) year period.*
- (10) *If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:*
- (a) *Ninety (90) days for the first offense;*
 - (b) *One (1) year for the second offense in a separate incident within a ten (10) year period; and*
 - (c) *Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.*
- (11) *If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:*
- (a) *One hundred eighty (180) days for the first offense; and*
 - (b) *Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.*
- (12) After *disqualifying a commercial driver's license holder or* suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action *within ten (10) days of receipt*~~[forthwith]~~. After *disqualifying a commercial driver's license holder or suspending, revoking, or canceling an out-of-state commercial driver's license holder's privilege to operate a commercial motor vehicle for at least sixty (60) days*~~[determining that the commercial driver's privilege should be suspended, revoked, or canceled]~~, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days. *The notification shall include*

both the disqualification and the violation that resulted in the disqualification, suspension, cancellation, or revocation.

- (13) *Upon notice from the Federal Motor Carrier Safety Administration that a driver has been determined to be an imminent hazard and has been disqualified from operating a commercial motor vehicle, the cabinet shall act in accordance with the provisions of 49 C.F.R. sec. 383.52. The cabinet shall notify the driver of the disqualification, which shall not exceed one (1) year in duration, and of the right to appeal to the Federal Motor Carrier Safety Administration in accordance with 49 C.F.R. sec. 383.52.*

Section 9. KRS 189.540 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate administrative regulations to govern the design and operation of all Kentucky school buses and to govern the operation of district-owned passenger vehicles transporting students under KRS 156.153(2). The board shall, with the advice and aid of the Kentucky State Police and the Transportation Cabinet, enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted and all district-owned passenger vehicles transporting students under KRS 156.153(2). The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.
- (2) Any employee of any school district who violates any of the administrative regulations in any contract executed on behalf of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district.
- (3) Any person who operates a school bus shall be required to possess a commercial driver's license issued pursuant to KRS 281A.170 *with a school bus endorsement as described in Section 1 of this Act.*

Section 10. KRS 174.405 is amended to read as follows:

As used in KRS 174.400 to 174.425:

- (1) "Carrier" means a person engaged in the commercial transportation of passengers or property, except for pipelines and railways, by:
 - (a) Land, as a common, contract, or private carrier; or
 - (b) Civil aircraft.
- (2) "Hazardous material" means a substance designated hazardous by the Federal Hazardous Materials Transportation ~~Law~~*[Act]* (49 U.S.C. ~~sec. 5101~~*secs. 1801*) et seq.) and regulations issued pursuant thereto, including but not limited to hazardous and radioactive waste, but shall not include agricultural wastes, coal mining wastes, utility waste (fly ash, bottom ash, scrubber sludge), sludge from water treatment and sewage treatment facilities, cement kiln dust, gas and oil drilling muds, oil production brines or waste oil.
- (3) "Hazardous waste" means a substance or material defined as hazardous waste by KRS Chapter 224 and regulations issued pursuant thereto.
- (4) "Radioactive material" means any material or combination of material, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than

0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.

- (5) "Radioactive waste" means any waste substance or combination of substances, in any form which because of its radioactive material content may create a threat to public health or to animal, plant, and aquatic life forms.
- (6) "Vehicle" means any device or contrivance for carrying or conveying persons, property, or substances, including conveyance by highways or by airway.

Section 11. KRS 411.450 is amended to read as follows:

As used in KRS 411.460 and 411.470 unless the context indicates otherwise:

- (1) "Discharge or disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous materials into or on any land or water so that such materials or any constituent thereof may enter the environment or be discharged into any waters, including ground waters.
- (2) "Hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported and which has been designated as a hazardous material under the Federal Hazardous Materials Transportation ~~Law~~~~[Act]~~ (49 U.S.C. *sec. 5101*~~[secs. 1801]~~ et seq.) or by any state law or regulation.
- (3) "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body.

Section 12. KRS 281.755 is amended to read as follows:

- (1) The commissioner and representatives of the Department of State Police may at any time or place make an inspection of any motor vehicle operating under the provisions of this chapter. They may enter into and upon any such motor vehicle for the purpose of ascertaining whether or not any provision of this chapter or any order or rule or regulation of the department relating to such motor vehicles has been violated. Willful refusal to stop any such motor vehicle, when ordered to do so by any representative of the department, or to permit the representative to enter into or upon the motor vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the motor carrier.
- (2) *In the event that a peace officer orders a commercial motor vehicle to be taken to a storage or impoundment facility as a result of a violation which requires the vehicle to be moved, the driver of the commercial motor vehicle shall be granted the ability to drive the commercial motor vehicle to the storage or impoundment facility. If the driver elects to drive to the storage or impoundment facility, a peace officer shall escort the vehicle to the facility. This subsection shall not apply if the commercial motor vehicle is required to be impounded as a result of a violation of KRS 281A.210, an out-of-service order as defined in subsection (26) of Section 5 of this Act, or a serious traffic violation as defined in subsection (29) of Section 5 of this Act.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not knowingly drop or throw any object at, onto, or in the path of any railroad rail or track, locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.*
- (2) *An unauthorized person shall not climb upon or into any locomotive, railroad car, or other vehicle of a railroad company when it is on a railroad track.*
- (3) *An unauthorized person shall not disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company when it is on a railroad track.*
- (4) *A person shall not knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including but not limited to any gate, bell, light, cross buck, stop sign, yield sign, advance warning sign, or advance pavement marking.*
- (5) *Except as provided in subsection (6) of this section, a person who violates any of the provisions of this section shall be guilty of a Class A misdemeanor.*
- (6)
 - (a) *If a violation of this section causes damage to property in excess of one thousand dollars (\$1,000) or creates a substantial risk of serious physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class D felony.*
 - (b) *If a violation of this section causes physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class C felony.*
 - (c) *If a violation of this section causes serious physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class B felony.*

Section 14. KRS 277.350 is amended to read as follows:

- (1) It shall be unlawful for any person without the consent of the railroad:
 - (a) To go upon the track, property, or right-of-way of a railroad, other than to pass over the track, property, or right-of-way at a public or private crossing; or
 - (b) To willfully ride, drive, or lead any animal or otherwise contrive for any animal to go over the track, property, or right-of-way at a public or private crossing.
- (2) The provisions of this section shall not apply to any section of railroad track that has been legally abandoned and is not being used for railroad purposes.
- (3) Any person violating this section shall be guilty of criminal trespass in the ~~second~~^{third} degree ~~and shall be subject to a maximum fine of twenty five dollars (\$25) for the first violation, a maximum fine of fifty dollars (\$50) for the second violation, and a maximum fine of one hundred dollars (\$100) for the third and any subsequent violation~~.

Approved March 18, 2005.