CHAPTER 180

(HB 117)

AN ACT relating to public health.

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

Section 1. KRS 214.155 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall operate a newborn screening program for heritable disorders that includes, but is not limited to, procedures for conducting initial newborn screening tests on infants twenty-eight (28) days or less of age and definitive diagnostic evaluations provided by a state university-based specialty clinic for infants whose initial screening tests resulted in a positive test. The secretary of the cabinet shall, by administrative regulation promulgated pursuant to KRS Chapter 13A:

(a) Prescribe the times and manner of obtaining a specimen and transferring a specimen for testing;

(b) Prescribe the manner of testing specimens and recording and reporting the results of newborn screening tests; and

(c) Establish and collect fees to support the newborn screening program.

(2) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders including, but not limited to, phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism, galactosemia, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease (MSUD), congenital adrenal hyperplasia (CAH), biotinidase disorder, and cystic fibrosis (CF), 3-methylcrotonyl-CoA carboxylase deficiency (3MCC), 3-OH 3-CH3 glutaric aciduria (HMG), argininosuccinic acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine uptake defect (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb S/beta-thalassemia (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria (HCY), isovaleric acidemia (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD), methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase deficiency (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PA), trifunctional protein deficiency (TFP), and tyrosinemia type I (TYR I). The listing of tests for heritable disorders ***to be performed shall*** ~~[may be revised to]~~ include ***all*** conditions ***consistent with*** ~~[as deemed appropriate by the cabinet based on]~~ the recommendations of the American College of Medical Genetics.

(3) Each health care provider of newborn care shall provide an infant's parent or guardian with information about the newborn screening tests required under subsection (2) of this section. The institution or health care provider shall arrange for appropriate and timely follow-ups to the newborn screening tests, including but not limited to additional diagnoses, evaluation, and treatment when indicated.

(4) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.

(5) The cabinet shall make available the names and addresses of health care providers including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.

(6) A parent or guardian shall be provided information by the institution or health care provider of newborn care about the availability and costs of screening tests not specified in subsection (2) of this section. The parent or guardian shall be responsible for costs relating to additional screening tests performed under this subsection, and these costs shall not be included in the fees established for the cabinet's newborn screening program under subsection (1) of this section. All positive results of additional screening of these tests shall be reported to the cabinet by the institution or health care provider.

(7) (a) For the purposes of this subsection, a qualified laboratory means a clinical laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C. sec. 263a, licensed to perform newborn screening testing in any state, and reports its screening results using normal pediatric reference ranges.

(b) The cabinet shall enter into agreements with public or private qualified laboratories to perform newborn screening tests if the laboratory operated by the cabinet is unable to screen for a condition specified in subsection (2) of this section.

(c) The cabinet may enter into agreements with public or private qualified laboratories to perform testing for conditions not specified in subsection (2) of this section. Any agreement entered into under this paragraph shall not preclude an institution or health care provider from conducting newborn screening tests for conditions not specified in subsection (2) of this section by utilizing other public or private qualified laboratories.

(8) The secretary for health and family services or his or her designee shall apply for any federal funds or grants available through the Public Health Service Act and may solicit and accept private funds to expand, improve, or evaluate programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.

(9) This section shall be cited as the James William Lazzaro and Madison Leigh Heflin Newborn Screening Act.

Section 2. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for Health and Family Services;

(2) "Secretary" shall mean the secretary for health and family services or his authorized representative;

(3) "Lead-based ***hazard***~~[substance]~~" shall mean ***levels contained in the federal Residential Lead-based Paint Hazard Reduction Act of 1992***~~[any substance containing more than six one hundredths of one percent (0.06%) lead by weight of nonvolatile content as provided in KRS 217.801]~~;

(4) "Dwelling" shall mean any structure ***or child-occupied facility***, all or a part of which is designed for human habitation;

(5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling ***or child-occupied facility*** designed or used for human habitation;

(6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator, or guardian of the estate of the owner;

(7) "At-risk persons" shall mean ***all children seventy-two (72) months of age and younger and pregnant women***~~[those persons]~~ who reside in dwellings or dwelling units which were constructed and~~[originally]~~ painted prior to ***1978, or reside***~~[1945 or other dwellings]~~ in geographic areas ***defined by the cabinet as high risk, or possess one (1) or more risk factors identified in a lead poisoning verbal risk assessment approved by the cabinet***~~[in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported];[and]~~

(8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at-risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974***;***

(9) "Elevated blood lead level" means any blood lead level greater than or equal to ten (10) micrograms per deciliter of whole blood or a level consistent with recommendations by the Centers for Disease Control and Prevention and the American Academy of Pediatrics; and

(10) "Confirmed elevated blood lead level" means a first venous blood lead test or a second capillary blood lead test taken within the time frames specified by the cabinet where the blood lead test result is greater than or equal to fifteen (15) micrograms per deciliter of whole blood.

Section 3. KRS 211.901 is amended to read as follows:

(1) The secretary shall establish a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.

(2) The secretary shall also initiate activities which:

(a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;

(b)~~[Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality, or private organizations which cannot secure or provide such services through other sources. The cabinet shall not assume responsibility for blood lead analysis required for programs in operation on June 21, 1974;~~

~~(c)]~~ Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and

(c)~~[(d)]~~ Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.

(3) The secretary may contract with any agencies, individuals, or groups for the provision of services necessary to administer KRS 211.900 to 211.905 and KRS 211.994.

(4) The secretary may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.

(5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 211.900 to 211.905 and KRS 211.994. The regulation shall include, but not be limited to, those which govern permissible limits of lead-based ***hazards***~~[substances]~~ in and about dwellings and dwelling units.

(6) Local boards of health may, by the adoption of local regulations, establish programs for the prevention, screening, diagnosis, and treatment of lead poisoning; provided that such regulations are the same as the provisions of KRS 211.900 to 211.905 and KRS 211.994 and the regulations promulgated by the secretary pursuant to subsection (5) of this section.

Section 4. KRS 211.902 is amended to read as follows:

(1) Every physician***,***~~[who diagnoses, or a]~~ nurse, hospital administrator, director of a clinical laboratory***,*** or public health officer~~[,]~~ who ***receives***~~[has verified]~~ information of the existence of any person found or suspected to have a ***two and three-tenths (2.3) micrograms per deciliter of whole blood*** level of lead in ***his or her blood shall report*** the~~[blood in excess of the permissible limits set out in regulations promulgated by the secretary, shall, within forty-eight (48) hours of receipt of verification thereof, report such]~~ information to the cabinet ***and***~~[or]~~ to the local or district health officer ***in approved electronic format as prescribed by administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A***~~[who shall in turn report such information to the cabinet]~~. The contents of the report shall include, but not be limited to, the following information:

(a) The ***full*** name and address of the person ***tested***~~[found or suspected to have lead poisoning]~~;

(b) The date of birth of such person;

(c) The ***type of specimen and the*** results of the appropriate laboratory tests made on such person;

(d) Any other information about such person deemed necessary by the ***cabinet to carry out the provisions of this section***~~[secretary]~~.

Any physician, nurse, hospital administrator, director of clinical laboratory, public health officer, or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from the making of such report.

(2) ***Every director of a clinical or research laboratory who has any blood lead test result shall, within seven (7) calendar days of receipt thereof, report the information to the cabinet in approved electronic format. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe the format and content of the electronic report.***

(3) ***Notwithstanding the requirements of subsections (1) and (2) of this section, a clinical or research laboratory shall not be fined or otherwise disciplined for failure to report required information to the cabinet if the information was not provided by the medical professional obtaining the blood sample.***

(4) The secretary shall maintain comprehensive records of all reports submitted pursuant to KRS 211.900 to 211.905 and 211.994. ***Records shall be analyzed and***~~[Such records shall be]~~ geographically indexed ***by county annually*** in order to determine the location of areas with a high incidence of ***elevated blood lead levels reported. The records and analysis shall be public record and provided annually by October 1 to the Governor, the General Assembly, the Legislative Research Commission, and the Lead Poisoning Prevention Advisory Committee***~~[reported lead poisoning. Such records shall be public records]~~; provided, however, that the name of any individual shall not be made public unless the secretary determines that such inclusion is necessary to protect the health and well-being of the affected individual.

(5)~~[(3)]~~ When ***an elevated blood lead level is reported to the cabinet, it***~~[a case of lead poisoning is reported to the secretary, he]~~ shall inform such local boards of health, local health department, and other persons and health organizations as ***deemed***~~[he deems]~~ necessary.

Section 5. KRS 211.903 is amended to read as follows:

(1) Testing for lead poisoning shall be an eligible benefit for recipients of the Commonwealth's Medical Assistance Program. ***In addition,*** testing for lead poisoning shall be made available as part of the regular immunization program offered by the cabinet and shall be provided without charge by the cabinet and by local health departments.

(2) The secretary shall establish programs throughout the Commonwealth, with priority given to high risk areas, for the voluntary screening and diagnosis of at risk persons. Such programs shall systematically test for elevated lead blood levels in all at risk persons ***seventy-two (72) months***~~[under six (6) years]~~ of age ***and younger*** and shall include an outreach program if necessary. Priority shall be given to at risk persons who are one (1) year of age through three (3) years of age. Such programs shall not apply to those persons having religious objections to such testing. Such testing shall be made by such means and at such intervals as the secretary shall by regulation determine may be medically necessary and proper.

(3) The secretary shall be responsible for providing follow-up screening and diagnostic programs for those persons who were previously diagnosed and treated for lead poisoning or were previously diagnosed as having an elevated lead blood level. The frequency with which follow-up shall be performed shall be determined by the secretary.

Section 6. KRS 211.905 is amended to read as follows:

(1) When notified that an occupant of a dwelling or dwelling unit is ***a child seventy-two (72) months of age or younger*** found to have ***a confirmed***~~[an]~~ elevated blood level, an authorized representative of the cabinet shall inspect the dwelling and dwelling unit ***or other places the child routinely spends more than six (6) hours per week***, at reasonable times, for the purpose of ascertaining the existence of lead-based ***hazards***~~[substance]~~. The representative of the cabinet shall present proper credentials to the owner or occupant of the dwelling or dwelling unit prior to inspection of the premises. Such representative may remove samples necessary for laboratory analysis, in the determination of the presence of lead-based ***hazards***~~[substances]~~ in the designated dwelling or dwelling unit.

(2) Upon determination by the cabinet that there are lead-based substances in or upon any dwelling or dwelling unit which may be hazardous to children, or upon receipt of confirmation that an occupant has ***an elevated blood lead level as***~~[a level of lead in his blood in excess of permissible limits]~~ set out in regulations promulgated by the secretary, the cabinet shall:

(a) In the event that~~[small]~~ children ***seventy-two (72) months of age or younger*** reside in the premises, notify the owner and occupant that lead-based ***hazards***~~[substances]~~ are present on the surfaces of the dwelling or dwelling unit and may constitute a hazard to the health of children;

(b) Inform the local health officers of the results of such determination and provide suitable recommendations for elimination of the problem areas;

(c) Notify the owner of the dwelling or dwelling unit, in writing, advising of the existence of ***these lead-based hazards***~~[such substances]~~ with instructions that these ***lead-based hazards***~~[substances]~~, if accessible to children under the age of ***seventy-two (72) months***~~[six (6)]~~, shall be removed, replaced, or

securely and permanently covered within a time period not to exceed ***sixty (60)***~~[thirty (30)]~~ days and in a manner prescribed by the cabinet.

(3) The removal of the lead-based ***hazards***~~[substances]~~ from the dwelling or dwelling unit shall be accomplished by the owner in a manner which will not endanger the health or well-being of its occupants, and result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, and other potentially harmful materials.

(4) In the event that the owner of the dwelling or dwelling unit does not remove, replace, or securely and permanently cover the lead-based substances designated as hazardous within ***sixty (60)***~~[thirty (30)]~~ days, the cabinet shall cause to be posted upon the dwelling or dwelling unit identified as containing lead-based ***hazards***~~[substances]~~, a notice of the existence of such ***hazards***~~[substances]~~ and the declaration that the dwelling or dwelling unit is unfit for human habitation for those persons under ***seventy-two (72) months***~~[six (6) years]~~ of age. The dwelling or dwelling unit shall remain posted until the owner has complied with the orders of the cabinet.

(5) Determination by the cabinet that a child under ***seventy-two (72) months***~~[six (6) years]~~ of age is in immediate danger from the presence of lead-based ***hazards***~~[substances]~~ in or upon a dwelling or dwelling unit shall be cause for release from a rental agreement without prejudice to the occupant.

Section 7. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the executive director or designee of the Office of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs***;***

(l) At least one (1) member shall be a representative for the Head Start program; and

(m) At least one (1) member shall be a representative of the Education of Homeless Children and Youth program.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to three (3) years of age;

(f) Identifying sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education; and

(i) Developing performance measures to assess the outcomes for children receiving services.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, including recommendations of ways to improve quality and cost effectiveness, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 8. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person ***sixteen (16) years of age or older*** operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(c) A person under the age of sixteen (16) years, when operating or riding as a passenger on an all-terrain vehicle, shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 9. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) ***A***~~[No]~~ person shall ***not*** sell any new ***motor***~~[passenger]~~ vehicle in this state nor shall any person make application for registering a new ***motor***~~[passenger]~~ vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) ***A***~~[No]~~ person shall ***not*** operate a motor vehicle manufactured after ***1981***~~[1965]~~ on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A ***conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record***~~[peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (6) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (6) of this section]~~.

(8) The provisions of ***subsection***~~[subsections]~~ (6)~~[and (7)]~~ of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to ***subsection***~~[subsections]~~ (6)~~[and (7)]~~ of this section may be enacted by any unit of local government.

Section 10. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). ***This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.***

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 11. KRS 431.452 is amended to read as follows:

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.

(3) An offense which is designated as subject to prepayment is subject to the following conditions:

(a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

(b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;

(c) ***Except as provided for in subsection (25) of Section 10 of this Act,*** for any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph;

(d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(4) When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.

(5) The Administrative Office of the Courts, after consultation with the Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Division of Fish and Wildlife, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

SECTION 12. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

All law enforcement agencies in this state shall be prohibited from erecting roadblocks for the sole purpose of checking for violations of KRS 189.125.

Section 13. The Transportation Cabinet shall erect signs notifying the traveling public that seat belt use is a requirement in Kentucky at every border crossing on the interstate system between Kentucky and neighboring states, at every rest area within the Commonwealth on the interstate system, and every fifty (50) miles on the interstate system, or at another reasonable distance as determined by the Transportation Cabinet. The signs required by this section may be the current signs that depict a person with a seat belt across the body.

Section 14. Between the effective date of this Act and January 1, 2007, all law enforcement agencies in this state shall be required to issue a courtesy warning rather than a citation to persons who violate subsection (6) of Section 9 of this Act. The courtesy warning shall not include a fine or any other penalty but shall inform the violator of the amount of the fine that will be assessed for a violation of subsection (6) of Section 9 of this Act and the date the courtesy warnings will end. The courtesy warning shall also include educational materials on the benefits of complying with subsection (6) of Section 9 of this Act.

Approved April 18, 2006