

CHAPTER 138**(HB 230)**

AN ACT relating to the operation of school buses.

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) *As used in this section, "cellular telephone" means a cellular, analog, wireless, or digital telephone.*
- (2) *A person shall not operate a school bus, as defined in KRS 281A.010, on any highway while using a cellular telephone while the bus is in motion and transporting one (1) or more children, except for communications made to and from a central dispatch, school transportation department, or its equivalent when the bus is not equipped with a functioning two-way radio.*
- (3) *Notwithstanding subsection (2) of this section, a person operating a school bus shall be allowed to use a cellular telephone in the event of a bona fide emergency.*

Section 2. 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 motor vehicle under the influence of alcohol or a controlled substance;
 - (b) Driving or being in physical control of a 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 motor vehicle driven by a person who holds or is required to hold a CDL;
 - (d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;
 - (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 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, 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) ***A person who violates the provisions of Section 1 of this Act shall be fined fifty dollars (\$50) for the first offense. For a subsequent offense, a violator shall be fined one hundred dollars (\$100) and shall have his or her school bus endorsement suspended for a period of six (6) months.***
- (13) 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. 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, 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.
- ~~(14)~~(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.

Approved April 5, 2007.