

**CHAPTER 59**

**( HB 289 )**

AN ACT relating to the operation of a motor vehicle.

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

➔Section 1. KRS 189.960 is amended to read as follows:

- (1) The operator of a vehicle shall yield the right-of-way to any public safety vehicle, *as defined in KRS 189.910(2)*, or *any* pedestrian actually engaged in work upon a highway or within any highway construction or maintenance area indicated by official traffic control devices.
- (2) The operator of a vehicle shall yield the right-of-way to any public safety vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of KRS 189.920(4)~~(3)~~.

➔Section 2. KRS 189.394 is amended to read as follows:

- (1) The fines for speeding in violation of KRS 189.390 shall be:

Mph.	Prima Facie or Maximum Speed												Fine
Over	15	20	25	30	35	40	45	50	55	60	65	70	
Limit	15	20	25	30	35	40	45	50	55	60	65	70	
1	16	21	26	31	36	41	46	51	56	61	66	<b>71</b>	\$1
2	17	22	27	32	37	42	47	52	57	62	67	<b>72</b>	2
3	18	23	28	33	38	43	48	53	58	63	68	<b>73</b>	3
4	19	24	29	34	39	44	49	54	59	64	69	<b>74</b>	4
5	20	25	30	35	40	45	50	55	60	65	70	<b>75</b>	5
6	21	26	31	36	41	46	51	56	61	66	71	<b>76</b>	16
7	22	27	32	37	42	47	52	57	62	67	72	<b>77</b>	17
8	23	28	33	38	43	48	53	58	63	68	73	<b>78</b>	18
9	24	29	34	39	44	49	54	59	64	69	74	<b>79</b>	19
10	25	30	35	40	45	50	55	60	65	70	75	<b>80</b>	20
11	26	31	36	41	46	51	56	61	66	71	76	<b>81</b>	22
12	27	32	37	42	47	52	57	62	67	72	77	<b>82</b>	24
13	28	33	38	43	48	53	58	63	68	73	78	<b>83</b>	26
14	29	34	39	44	49	54	59	64	69	74	79	<b>84</b>	28
15	30	35	40	45	50	55	60	65	70	75	80	<b>85</b>	30
16	31	36	41	46	51	56	61	66	71	76	81		32
17	32	37	42	47	52	57	62	67	72	77	82		34
18	33	38	43	48	53	58	63	68	73	78	83		36
19	34	39	44	49	54	59	64	69	74	79	84		38
20	35	40	45	50	55	60	65	70	75	80	85		40
21	36	41	46	51	56	61	66	71					43
22	37	42	47	52	57	62	67	72					46
23	38	43	48	53	58	63	68	73					49

24	39	44	49	54	59	64	69	74	52
25	40	45	50	55	60	65	70	75	55

- (2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars (\$60) nor more than one hundred dollars (\$100).
- (3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.
- (4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.
- (5) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.
- (6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.
- (7) If the offense occurred in an area near a school where flasher lights have been installed and are flashing, and a speed limit has been set pursuant to KRS 189.336, the fine established by subsection (1) or (2) of this section shall be doubled.

➔Section 3. KRS 189.292 is amended to read as follows:

- (1) As used in this section, "personal communication device" means a device capable of two (2) way audio or text communication that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers communication to the possessor, including but not limited to a paging device and a cellular telephone.
- (2) Except as provided in subsection (3) of this section, no person shall, while operating a motor vehicle that is in motion on the traveled portion of a roadway, write, send, or read text-based communication using a personal communication device to manually communicate with any person using text-based communication, including but not limited to communications referred to as a text message, instant message, or electronic mail.
- (3) Subsection (2) of this section shall not apply to:
  - (a) The use of a global positioning system feature of a personal communication device;
  - (b) *The use of a global positioning or navigation system that is physically or electronically integrated into the motor vehicle;*
  - (c)~~(b)~~ The reading, selecting, or entering of a telephone number or name in a personal communication device for the purpose of making a phone call;
  - (d)~~(c)~~ An operator of an emergency or public safety vehicle, when the use of a personal communication device is an essential function of the operator's official duties; or
  - (e)~~(d)~~ The operator of a motor vehicle who writes a text message on a personal communication device to:
    1. Report illegal activity;
    2. Summon medical help;
    3. Summon a law enforcement or public safety agency; or
    4. Prevent injury to a person or property.
- (4) *The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section, including but not limited to updates or advances in the automotive and information technology industries.*

➔Section 4. KRS 189.294 is amended to read as follows:

- (1) As used in this section, "personal communication device" shall have the same meaning as defined in KRS 189.292.

- (2) Any person under the age of eighteen (18) who has been issued an instruction permit, intermediate license, or operator's license shall not operate a motor vehicle, motorcycle, or moped that is in motion on the traveled portion of a roadway while using a personal communication device, except to summon medical help or a law enforcement or public safety agency in an emergency situation.
- (3) Use of a personal communication device does not include a stand-alone global positioning system, ***a global positioning or navigation system that is physically or electronically integrated into the motor vehicle***, or an in-vehicle security, diagnostics, and communications system, but does include manually entering information into the global positioning system feature of a personal communication device.
- (4) This section shall not apply to the use of a citizens band radio or an amateur radio by a motor vehicle operator.
- (5) ***The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section, including but not limited to updates or advances in the automotive and information technology industries.***

➔Section 5. KRS 186.412 is amended to read as follows:

- (1)
  - (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).
  - (b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.
  - (c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:
  - (a) Full legal name and signature;
  - (b) Date of birth;
  - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
  - (d) Sex;
  - (e) Present Kentucky resident address, exclusive of a post office box address alone;
  - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
  - (g) A brief physical description of the applicant;
  - (h) A statement if the person has previously been licensed as an operator in another state;
  - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
  - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:
  - (a) An I-551 card with a photograph of the applicant; or
  - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and

Immigration Services has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
  - (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
  - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
  - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
  - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
  - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
  - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
- (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (b) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a released felony offender resides shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:
1. The offender's certificate of birth;
  2. A copy of the offender's resident record card and parole certificate or notice of discharge;
  3. A photograph of the offender, printed on plastic card or paper; and
  4. A release letter that shall contain the offender's:
    - a. Full legal name, subject to the information available to the Department of Corrections;
    - b. Discharge/release date;
    - c. Signature;

- d. Social Security number;
- e. Date of birth;
- f. Present Kentucky address where he or she resides; and
- g. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (c) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a felony offender resides shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:
  - 1. The offender's certificate of birth;
  - 2. The offender's sentencing order;
  - 3. A photograph of the offender, printed on plastic card or paper; and
  - 4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
    - a. Full legal name, subject to the information available to the Division of Probation and Parole;
    - b. Signature;
    - c. Social Security number;
    - d. Date of birth;
    - e. Present Kentucky address where he or she resides; and
    - f. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.
- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license,

upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
- (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
- (c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
- (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;
- (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
- (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of *two dollars (\$2)*~~one dollar (\$1)~~ paid to the circuit clerk, *two (2)*~~one (1)~~ medical insignia ~~decals~~~~decal~~ that may be affixed to the *driver's*~~lower left~~ side of the front windshield of a motor vehicle *and to the driver's side of the rear window of a motor vehicle*.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
- (a) Use her husband's last name;
- (b) Retain her maiden name;
- (c) Use her maiden name hyphenated with her husband's last name;
- (d) Use her maiden name as a middle name and her husband's last name as her last name; or
- (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

**Signed by Governor March 15, 2011.**

