

## CHAPTER 111

## ( HB 262 )

AN ACT relating to driving under the influence and declaring an emergency.

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

➔Section 1. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

- (1) He or she has given his or her consent to one (1) or more tests of his or her blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred;
- (2) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given;
- (3)
  - (a) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).
  - (b) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice and Public Safety Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.
  - (c) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice and Public Safety Cabinet or his or her designee;
- (4) A breath test shall consist of a test which is performed in accordance with the **standard operating procedures** ~~[manufacturer's instructions or instructions]~~ adopted by the Department of Criminal Justice Training ~~[and approved by the manufacturer]~~ for the use of the instrument. The secretary of the Justice and Public Safety Cabinet shall keep available for public inspection and provide, upon request and without charge, copies of **the standard operating procedures** ~~[these manufacturer's instructions or instructions]~~ adopted by the Department of Criminal Justice Training ~~[and approved by the manufacturer]~~ for all models of breath testing devices in use by the Commonwealth of Kentucky;
- (5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test;
- (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section; and
- (7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his or her own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

➔Section 2. KRS 189A.110 is amended to read as follows:

Any person who is arrested for a violation of KRS 189A.010 ~~[and who, upon breath analysis testing, shows an alcohol concentration reading of .15 percent or more]~~ shall be detained in custody at least ~~six (6)~~ ~~[four (4)]~~ hours following his or her arrest.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of vehicular homicide when:*

(a) *He or she causes the death of another; and*

(b) *The death results from the person's operation of a motor vehicle, including but not limited to boats and airplanes, under the influence of alcohol, a controlled substance, or other substance which impairs driving ability as described in KRS 189A.010.*

(2) *Vehicular homicide is a Class B felony.*

➔Section 4. This Act may be cited as Lily's Law.

➔Section 5. Whereas driving under the influence of alcohol or any substance which impairs one's ability to drive a motor vehicle presents a danger to public safety, an emergency is declared to exist, and this Act takes effect upon passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 27, 2023.**