

601 KAR 13:025. Point system.

RELATES TO: KRS Chapter 13B, 177.300, 177.330, 186.450(4), (5), (6), 186.480, 186.570, 186.572, 186.620(1), 189.224, 189.285, 189.300, 189.340, 189.350, 189.380, 189.390, 189.420, 189.440, 189.470, 189.990(5)

STATUTORY AUTHORITY: KRS 186.400(1), 186.570(1)(d), 189.292, 189.294

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.400(1) authorizes the Transportation Cabinet to promulgate administrative regulations for the enforcement of motor vehicle laws and driver licensing. KRS 189.292 and 189.294 authorize the cabinet to promulgate administrative regulations related to the use of a personal communication device while operating a moving motor vehicle. KRS 186.570(1)(d) authorizes the cabinet to deny or suspend an operator's license if a person is a habitually reckless or negligent driver or has committed a serious violation of the motor vehicle laws. This administrative regulation establishes an equitable driver license point system for a driver who violates a traffic law. This administrative regulation also establishes those offenses for which a license shall be suspended rather than points accumulated.

Section 1. Definitions. (1) "Conviction" means an adjudication of guilt, forfeiture of bail, a plea of guilty, a plea of nolo contendere, an Alford plea, or the payment of a fine or court cost, with or without a court appearance.

(2) "Probation" means a pending driving privilege suspension period that is held in abeyance.

(3) "Suspension" means a temporary denial, interruption, withdrawal, or revocation of a driver's license.

Section 2. Application of Penalty Points. (1) A schedule of penalty points shall be applied to determine if a person is a habitually reckless or negligent driver as referenced in KRS 186.570(1)(d).

(2) Penalty points shall be assessed or a driving privilege suspended for conviction of a motor vehicle law of any state for which penalty points are assigned pursuant to Section 4 of this administrative regulation, except a speeding violation in another state shall not be assessed penalty points.

Section 3. Serious Violations. (1) Conviction for one (1) of the serious violations, referenced in paragraphs (a) through (c) of this subsection, of the motor vehicle laws may, in accordance with Sections 7 or 9 of this administrative regulation, cause suspension or probation of the driving privilege for the period of time indicated:

(a) Racing - ninety (90) days;

(b) Speeding twenty-six (26) MPH or more over limit - ninety (90) days; or

(c) Attempting to elude law enforcement officer by use of motor vehicle - ninety (90) days.

(2) A person convicted of a violation referenced in subsection (1) of this section shall appear for an informal hearing at the time and place established pursuant to Section 9 of this administrative regulation.

Section 4. Penalty Points. Conviction for one (1) of the moving traffic offenses, referenced in subsections (1) through (24) of this section, except for a speeding violation in another state, shall be cause for assessment of the penalty points indicated:

(1) Speeding fifteen (15) MPH or less over the limit - three (3) penalty points, except as es-

tablished in KRS 186.572;

- (2) Speeding sixteen (16) MPH or more, but less than twenty-six (26) MPH, over the limit - six (6) penalty points;
- (3) Failure to stop for church or school bus, as established in KRS 189.990(5) - six (6) penalty points;
- (4) Improper passing - five (5) penalty points;
- (5) Reckless driving - four (4) penalty points;
- (6) Driving on the wrong side of road - four (4) penalty points;
- (7) Following too closely - four (4) penalty points;
- (8) Failure to yield to an emergency vehicle - four (4) penalty points;
- (9) Changing drivers in a moving vehicle - four (4) penalty points;
- (10) Vehicle not under control - four (4) penalty points;
- (11) Failure to stop violation (electric signal, railroad crossing, stop sign) - three (3) penalty points;
- (12) Failure to yield - three (3) penalty points;
- (13) Driving the wrong way on one-way street - three (3) penalty points;
- (14) Driving too fast for conditions - three (3) penalty points;
- (15) Driving too slow for conditions - three (3) penalty points;
- (16) Improper start - three (3) penalty points;
- (17) Improper driving - three (3) penalty points;
- (18) Careless driving - three (3) penalty points;
- (19) Failure to yield left lane - three (3) penalty points;
- (20) Improper lane usage - three (3) penalty points;
- (21) Failure to illuminate headlights - three (3) penalty points;
- (22) Failure to dim headlights - three (3) penalty points;
- (23) Texting while driving - three (3) penalty points; or
- (24) A combination of two (2) or more violations of motor vehicle laws in one (1) occurrence - six (6) penalty points.

Section 5. Warning Letter. (1)(a) If a person of eighteen (18) years of age or older accumulates six (6) or more penalty points within a two (2) year period, the Transportation Cabinet shall send a letter to the address shown on the driving history record advising the person of the number of penalty points on his or her driving history record.

(b) The letter shall inform the person of the penalties that may be imposed if he or she accumulates twelve (12) or more penalty points within two (2) years.

(2)(a) If a person under the age of eighteen (18) years accumulates four (4) or more penalty points within a two (2) year period, the Transportation Cabinet shall send a letter to the address shown on the driving history record advising of the number of penalty points on his or her driving history record.

(b) The letter shall inform the person of the penalties that may be imposed if seven (7) or more penalty points are accumulated prior to his or her 18th birthday.

Section 6. Suspension. (1) The cabinet may, in accordance with Sections 7 or 9 of this administrative regulation, suspend or probate the driving privilege of a person:

(a) Eighteen (18) years of age or older who accumulates twelve (12) or more penalty points within a period of two (2) years; or

(b) Under the age of eighteen (18) years who accumulates seven (7) or more penalty points within a period of two (2) years.

(2) The cabinet may, in accordance with Section 9 of this administrative regulation, suspend the driving privilege of a person for a period of:

- (a) No less than ninety (90) days but no more than six (6) months for the first accumulation;
- (b) One (1) year for the second accumulation; and
- (c) Two (2) years for an additional or subsequent accumulation within a two (2) year period.

(3) If the cabinet suspends the driving privilege of a person during the period that a prior suspension is in effect, the subsequent suspension period shall run consecutive to the prior.

Section 7. Probation. (1) If a person possesses a valid operator license or intermediate license not suspended in any state or jurisdiction and appears at an informal hearing at the time and place established pursuant to KRS 186.570 and Section 9 of this administrative regulation, a driver improvement hearing officer may place the driver as referenced in paragraphs (a) through (c) of this subsection on probation in lieu of suspension if the person is:

(a) Of eighteen (18) years of age or older who accumulates twelve (12) penalty points or more within a period of two (2) years;

(b) Under the age of eighteen (18) years who accumulates seven (7) or more points; or

(c) Convicted of a violation of a motor vehicle law, as established in Section 3 of this administrative regulation.

(2) The probation period used in lieu of suspension shall be double the length of the applicable suspension period.

(3) A person on probation shall have his or her driving privilege suspended, pursuant to Section 6 of this administrative regulation if he or she:

(a) Receives an additional conviction of a motor vehicle law; or

(b) Fails to enroll and successfully complete the driver improvement clinic.

(4) A person placed on probation shall not be eligible again for probation prior to a two (2) year period from the expiration of the probationary period.

(5)(a) The cabinet may, in accordance with Section 9 of this administrative regulation, waive the remainder of a driving privilege suspension if the suspended person becomes eligible for probation.

(b) If waived, the driver shall be placed on probation for double the amount of time remaining on the suspension period.

Section 8. Conviction Report. (1) The cabinet shall not consider a conviction report used to impose a driving privilege suspension or probation for the imposition of an unrelated suspension or probation.

(2) The cabinet may consider a conviction report used to impose a driving privilege suspension or probation to show that the person's driving privilege has previously been suspended.

Section 9. Informal Hearing. (1)(a) Pursuant to KRS 186.570(4), an informal hearing shall be available to a person who received notice of the cabinet's intent to suspend his or her driving privilege.

(b) Pursuant to KRS 186.570(1) through (4), a person convicted of a violation referenced in Sections 3 or 6(1) of this administrative regulation shall appear for an informal hearing at the time and place designated by the cabinet.

(2) To be eligible for probation, the person shall appear for the informal hearing at the time and place designated by the cabinet.

(3) The informal hearing shall be conducted by a driver improvement hearing officer who is an appointed representative of the Transportation Cabinet.

(4) The testimony given at the informal hearing shall be recorded and retained by the cabinet for a period of at least sixty (60) days after the deadline for requesting an administrative hearing.

(5)(a) The driver improvement hearing officer shall determine if the cabinet may suspend a person's driving privilege based on the:

1. Evidence presented;
2. Testimony; and
3. Driving history record.

(b) If the driver improvement hearing officer determines that the cabinet may suspend the person's driving privilege, he shall order a:

1. License suspension; or
2. Probationary period.

(6) If probation is granted, the terms shall be carefully explained to the person. The person shall indicate an understanding and acceptance of the terms by signing a Probation Request, TC Form 94-51.

(7) If probation is not granted, the driver improvement hearing officer shall prepare the order suspending the person's driving privilege at the close of the informal hearing. The effective date of the suspension shall be included in the order.

Section 10. Formal Administrative Hearing. (1) Within twenty (20) days, a party aggrieved by the order in an informal hearing may in writing request a formal administrative hearing.

(2) A request for an administrative hearing shall state the reason or reasons the aggrieved party believes the cabinet's action was erroneous.

(3) A request for an administrative hearing shall be submitted to the Transportation Cabinet Building, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622.

Section 11. Incorporation by Reference. (1) "Probation Request", TC form 94-15, July 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet Building, Division of Driver Licensing, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (16 Ky.R. 2807; eff. 8-9-1990; 23 Ky.R. 2261; 2982; eff. 2-10-1997; 40 Ky.R. 436; 804; eff. 11-1-2013; Crt eff. 2-25-2019.)