

STATEMENT OF EMERGENCY
601 KAR 12:120E.

This new emergency regulation is being promulgated to implement the 2021 Regular Session House Bill 439 amendments to KRS 186.577 requiring the Kentucky State Police to continue to submit persons applying for an initial operator's license, or an initial instruction permit, to a test of visual acuity and visual field at the time of application but now authorizing medical professionals to conduct the examinations prior to application when requested. It also implements the requirement that the Division of Driver Licensing submit persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to a test of visual acuity and visual field at time of application or by a medical professional prior to application. The regulation implements the requirement that persons whose visual acuity is 20/60 or better in one eye and who meet or exceed the visual field standard with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. It also implements the KRS 186.577 requirement that the Transportation Cabinet establish visual field standards, create a driver vision testing form, and establish a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

House Bill 439 was enacted on March 15, 2021, signed by Governor Andy Beshear on March 25, 2021, and was to become effective on July 1, 2024, but in 2024 the General Assembly moved the effective date of the amendments to January 1, 2025 in Senate Bill 91 (R.S. 2024). House Bill 439 (R.S. 2021) amended KRS 186.577 to require vision testing for operator's license renewal; allow vision testing to be performed at the time of application; allow an applicant to submit a form attesting that they have submitted to a vision test less than twelve months from the application date; require that any vision testing form submitted shall be signed by an ophthalmologist, optometrist, or a KYTC credentialed osteopath, physician, or advanced practice registered nurse; direct the Transportation Cabinet to promulgate administrative regulations; allow the Transportation Cabinet to assess a fee for administering on-site vision testing; require that any funds received from the fee assessed by the cabinet for vision testing, be deposited into the photo license account; and amend KRS 186.480 and KRS 174.056 to conform. Section 53 of Senate Bill 91 (R.S. 2024) requires that no one applying for renewal be required to submit to driver vision testing prior to January 1, 2025.

This new emergency regulation is required to meet the impending deadline for implementing the amendments and necessitated by the continuous ongoing discussions with stakeholders including medical providers whose daily profession activities will be impacted by the new vision examination requirements. This new emergency administrative regulation will be replaced by an ordinary administrative regulation that is being filed simultaneously. The ordinary administrative regulation is identical to this new emergency administrative regulation.

ANDY BESHEAR, Governor

JIM GRAY, Secretary

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(New Emergency Administrative Regulation)

601 KAR 12:120E. Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

RELATES TO: KRS 186.412, 186.4121, 186.415, 186.416, 186.417, 186.419, 186.435, 186.442, 186.450, 186.480, 186.580, 601 KAR 12:020.

STATUTORY AUTHORITY: KRS 186.4101, 186.444, 186.570, 186.577

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.577 requires the Kentucky State Police to test persons applying for an initial operator's license or an initial instruction permit to submit to a test of visual acuity and visual field at the time of application. It also requires the Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing, to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to submit to a test of visual acuity and visual field at the time of application. It also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard established by this administrative regulation with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. KRS 186.577 also requires the Transportation Cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of the section, including establishing visual field standards, the creation of a driver vision testing form, and establishing a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

Section 1. Definitions.

- (1) "Corrective lens" means an ophthalmic lens, whether an eyeglass, contact lens, or single lens system, that corrects the refraction error or other optically correctable deficiency of the eye.
- (2) "Credentialed medical specialist" means an osteopath, physician, or advanced practice registered nurse who is credentialed by the cabinet to perform vision testing under this administrative regulation.
- (3) "Field of vision" means the entire horizontal and vertical planes a person has for each eye without shifting the gaze.
- (4) "Licensing action" means any action by the Transportation Cabinet involving the denial, cancellation, restriction, or issuance of a motor vehicle operator's license pursuant to KRS Chapter 186.
- (5) "Medical Review Board" means the Medical Review Board established pursuant to KRS 186.444 and 186.570(1)(c).
- (6) "Visual field" is defined by KRS 186.576(13).
- (7) "Vision specialist" means a person licensed to practice optometry as established in KRS Chapter 320 or its out-of-state equivalent, or an ophthalmologist who is a medical or osteopathic physician specializing in eye and vision care and licensed pursuant to KRS Chapter 311 or its out-of-state equivalent.
- (8) "Vision testing" means the initial vision screening for visual acuity and visual field conducted by the Kentucky State Police, a credentialed medical specialist, or a vision specialist to test persons applying for an initial operator's license or an initial instruction permit, or the vision screening conducted by the Division of Driver Licensing, a credentialed medical specialist, or a vision specialist to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement. It also means

the further examination vision testing for visual acuity and visual field conducted by a vision specialist after a failed initial vision screening.

(9) "Visual field standards" means the driver's horizontal field of vision shall be at least thirty (30) degrees to both the left and the right without interruption and their vertical field of vision shall be at least twenty-five (25) degrees above and below fixation without interruption.

Section 2. Procedures for Testing Applicants for Initial or Renewal Instruction Permit, Initial or Renewal License, or Reinstatement.

(1) The following persons shall submit to a test of visual acuity and visual field at the time of application or renewal:

- (a) All persons applying for an initial or renewal operator's license;
- (b) All persons applying for an initial or renewal instruction permit; and
- (c) Any person required to complete an examination under KRS 186.635.

(2) Vision testing under this section shall be administered to any person:

(a) Applying for an initial operator's license, an initial instruction permit, or reinstatement of a license when vision shall be tested as required in KRS 186.480:

- 1. Prior to the time of application under subsection (5) of this section; or
- 2. By Kentucky State Police at the time of application;

(b) Applying for operator's license renewal or instruction permit renewal:

- 1. Prior to the time of application under subsection (5) of this section; or
- 2. By the Transportation Cabinet at the time of application; or Identified in Kentucky administrative regulations promulgated by the

(c) Transportation Cabinet as being required to undergo the exam required by KRS 186.480.

(3) Visual acuity and visual field.

(a) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet without corrective lenses shall not have a restriction placed on their driving privileges.

(b) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses.

(c) Persons with a horizontal visual field in the person's better eye of at least thirty (30) degrees to the left and right side of fixation without interruption and a vertical visual field in the person's better eye of at least twenty-five (25) degrees above and below fixation without interruption shall be eligible to test for an instruction permit or operator's license or shall be eligible for an instruction permit or operator's license renewal or reinstatement.

(d) If a person fails to meet a 20/40 visual acuity standard or the visual field standard established by this administrative regulation in an initial screening by the Kentucky State Police, the Division of Driver Licensing, or a credentialed medical specialist, the person shall be referred to a vision specialist for further examination. If a vision specialist performs the initial screening and the person does not meet the visual standards, the vision specialist may conduct any further examination necessary to complete the TC 94-202, Driver Vision Testing Certification.

(e) Any further examination visual field test conducted by a vision specialist after a failed initial vision screening under this administrative regulation shall test the entire field of vision for interruption.

(4) A person referred to a vision specialist under subsection (3) of this section whose visual acuity is 20/60 or better in one eye and who meets or exceeds the visual field standard established by this administrative regulation shall be eligible to test for an

instruction permit or operator's license or shall be eligible for operator's license renewal or reinstatement. If corrective lenses were prescribed by a vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.

(5) Vision tests administered under subsection (2)(a) of this section shall be deemed to meet the testing provisions outlined in subsection (3) or (4) of this section, if the person submits a TC 94-202, Driver Vision Testing Certification, and the form has been completed by:

- (a) A vision specialist; or
- (b) An osteopath, physician, or advanced practice registered nurse who is credentialed by the department to perform vision testing pursuant to KRS 186.577 and this administrative regulation.

(6) All driver vision testing forms completed under subsection (5) of this section shall:

- (a) Attest that the applicant meets or exceeds the visual acuity standard and visual field standard established by KRS 186.577 and the department in this administrative regulation;
- (b) Only be valid if the vision specialist or the credentialed osteopath, credentialed physician, or credentialed advanced practice registered nurse signed and completed the TC 94-202, Driver Vision Testing Certification, vision testing form less than twelve (12) months prior to the date of application or renewal;
- (c) State whether the driving privileges of the applicant shall be restricted to mandate the use of corrective lenses;
- (d) Clearly indicate that the vision testing under this section is a screening for minimum vision standards established in this section and is not a complete eye examination;
- (e) After any examination requested pursuant to KRS 186.577 and this administrative regulation, the examining vision specialist or credentialed medical specialist shall complete and report the findings of an examination on the TC 94-202, Driver Vision Testing Certification, and shall submit it directly to the department if the person's visual acuity or visual field do not meet the standards in this administrative regulation; and
- (f) If the department learns that a person applying for an initial or renewal instruction permit, initial or renewal license, or reinstatement, could have a medical condition that might affect safe driving, the department may, pursuant to 601 KAR 13:090, 601 KAR 13:100, and this administrative regulation require the person to provide the Medical Review Board with information about the person's medical condition and may thereafter take an appropriate licensing action.

(7) Any person seeking application or permit under subsection (1) of this section shall attest that he or she has submitted to and passed the visual acuity and visual field tests required under KRS 186.577 and this administrative regulation.

(8) Any person renewing an operator's license under KRS 186.416 shall be exempt from the vision testing requirements outlined in this administrative regulation.

(9) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall:

- (a) Have their driving privileges restricted to the use of a bioptic telescopic device; and
- (b) Be otherwise exempt from this section.

(10) Pursuant to KRS 186.480, the provisions of KRS 186.577 and of this administrative regulation shall not apply to an applicant who:

- (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;
- (b) At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under KRS 176.5062; or

- (c) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.
- (11) A credentialed medical specialist or a vision specialist shall complete the TC 94-202, Driver Vision Testing Certification, after any examination requested pursuant to KRS 186.577 and this administrative regulation and shall submit a copy of the certification of any examination failures to the Division of Driver Licensing. Unless the Division of Driver Licensing or the Kentucky State Police is conducting the initial screening at the time of application, the Kentucky State Police or the department shall require a person to submit a completed original copy of this form for that person to be eligible for an initial operator's license, an initial instruction permit, license renewal, permit renewal, or reinstatement.

Section 3. Appeal of a Denial of Initial Instruction Permit, Operator's License, Renewal, or Reinstatement for Vision Standards.

- (1) After any further examination by a vision specialist requested pursuant to KRS 186.577 and this administrative regulation, an applicant who is deemed ineligible for an initial instruction permit, operator's license, renewal, or reinstatement because their visual acuity or visual field do not meet the applicable standards may appeal their denial to the Division of Driver Licensing, Medical Review Board.
- (2) An applicant may file an appeal by submitting a copy of the TC 94-202, Driver Vision Testing Certification, certified by a vision specialist to the Medical Review Board within twenty (20) days of the date the further examination was completed.

Section 4. Credentialing of a Medical Specialist.

- (1) A licensed osteopath, physician, or advanced practice registered nurse shall become credentialed by the Department of Vehicle Regulation before they may perform the initial vision testing required under KRS 186.577 and this administrative regulation. To become credentialed, the medical professional shall submit to the department a completed TC 94-203, Medical Specialist Credentialing Certification.
- (2) The applicant medical specialist shall thereafter receive an approved copy of the TC 94-203, Medical Specialist Credentialing Certification, from the Division of Driver Licensing credentialing them to perform the initial vision screening required under KRS 186.577 and this administrative regulation prior to completing any driver vision examination, and prior to completing a TC 94-202, Driver Vision Testing Certification.
- (3) The credentialed medical professional shall include their Medical Specialist Credential certification number on any completed TC 94-202, Driver Vision Testing Certification.

Section 5. Incorporated by Reference.

- (1) The following material is incorporated by reference:
- (a) "TC 94-202, Driver Vision Testing Certification," November 2024.
- (b) "TC 94-203, Medical Specialist Credentialing Certification," November 2024.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Driver Licensing, 2nd Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.
- (3) This material is also available on the Transportation Cabinet's website at [https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-\(TC-94\).aspx](https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-(TC-94).aspx).

JIM GRAY, Secretary

MATTHEW COLE, Commissioner

JESSE ROWE, Staff Attorney Manager/Assistant General Counsel

APPROVED BY AGENCY: December 5, 2024

FILED WITH LRC: December 6, 2024 at 11:25 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2025, at 10:00 AM EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jesse Rowe, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, (502) 564-7650, fax (502) 564-5238, jessew.rowe@ky.gov.