

1 AN ACT relating to alcohol monitoring devices.

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

3 ➔Section 1. KRS 189A.005 is amended to read as follows:

4 As used in this chapter, unless the context requires otherwise:

5 (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood
6 or grams of alcohol per 210 liters of breath;

7 (2) "Alcohol monitoring device" has the same meaning as in Section 3 of this Act;

8 (3) "Ignition interlock device" means a device, certified by the Transportation Cabinet
9 for use in this Commonwealth under KRS 189A.500(1), that connects a motor
10 vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer
11 and prevents a motor vehicle ignition or motorcycle ignition from starting, and from
12 continuing to operate, if a driver's breath alcohol concentration exceeds 0.02, as
13 measured by the device;

14 (4)~~(3)~~ "Ignition interlock certification of installation" means a certificate providing
15 that the installed ignition interlock device is certified for use in the Commonwealth
16 under KRS 189A.500(1);

17 (5)~~(4)~~ "Ignition interlock device provider" means any person or company engaged in
18 the business of manufacturing, selling, leasing, servicing, or monitoring ignition
19 interlock devices within the Commonwealth;

20 (6)~~(5)~~ "Ignition interlock license" means a motor vehicle or motorcycle operator's
21 license issued or granted by the laws of the Commonwealth of Kentucky that, with
22 limited exceptions, permits a person to drive only motor vehicles or motorcycles
23 equipped with a functioning ignition interlock device;

24 (7)~~(6)~~ "License" means any driver's or operator's license or any other license or
25 permit to operate a motor vehicle issued under or granted by the laws of this state
26 including:

27 (a) Any temporary license or instruction permit;

1 (b) The privilege of any person to obtain a valid license or instruction permit, or
2 to drive a motor vehicle whether or not the person holds a valid license; and

3 (c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

4 ~~(8)~~~~(7)~~ "Limited access highway" has the same meaning as "limited access facility"
5 does in KRS 177.220;

6 ~~(9)~~~~(8)~~ "Refusal" means declining to submit to any test or tests pursuant to KRS
7 189A.103. Declining may be either by word or by the act of refusal. If the breath
8 testing instrument for any reason shows an insufficient breath sample and the
9 alcohol concentration cannot be measured by the breath testing instrument, the law
10 enforcement officer shall then request the defendant to take a blood or urine test in
11 lieu of the breath test. If the defendant then declines either by word or by the act of
12 refusal, he shall then be deemed to have refused if the refusal occurs at the site at
13 which any alcohol concentration or substance test is to be administered;

14 ~~(10)~~~~(9)~~ When age is a factor, it shall mean age at the time of the commission of the
15 offense; and

16 ~~(11)~~~~(10)~~ Unless otherwise provided, license suspensions under this chapter shall be
17 imposed by the court. The court shall impose the applicable period of license
18 suspension enumerated by this chapter and shall include in its order or judgment the
19 length and terms of any suspension imposed. The license suspension shall be
20 deemed effective on the date of entry of the court's order or judgment. The role of
21 the Transportation Cabinet shall be limited to administering the suspension period
22 under the terms and for the duration enumerated by the court in its order or
23 judgment.

24 ➔Section 2. KRS 189A.070 is amended to read as follows:

25 (1) Unless the person is under eighteen (18) years of age, in addition to the penalties
26 specified in KRS 189A.010, a person convicted of violation of KRS
27 189A.010(1)(a), (b), (c), (d), or (e) shall have his or her license to operate a motor

- 1 vehicle or motorcycle revoked by the court as follows:
- 2 (a) For the first offense within a ten (10) year period, for a period of not less than
3 thirty (30) days nor more than one hundred twenty (120) days;
- 4 (b) For the second offense within a ten (10) year period, for a period of not less
5 than twelve (12) months nor more than eighteen (18) months;
- 6 (c) For a third offense within a ten (10) year period, for a period of not less than
7 twenty-four (24) months nor more than thirty-six (36) months; and
- 8 (d) For a fourth or subsequent offense within a ten (10) year period, sixty (60)
9 months.
- 10 (e) For purposes of this section, "offense" shall have the same meaning as
11 described in KRS 189A.010(5)(e).
- 12 (2) In determining the ten (10) year period under this section, the period shall be
13 measured from the dates on which the offenses occurred for which the judgments of
14 conviction were entered.
- 15 (3) In addition to the period of license revocation set forth in subsection (1) or (7) of
16 this section, no person shall be eligible for reinstatement of his or her full privilege
17 to operate a motor vehicle until he has completed the alcohol or substance abuse
18 education or treatment program ordered pursuant to KRS 189A.040.
- 19 (4) A person under the age of eighteen (18) who is convicted of violation of KRS
20 189A.010(1)(a), (b), (c), (d), or (e) shall have his license revoked by the court until
21 he reaches the age of eighteen (18) or shall have his license revoked as provided in
22 subsection (1) or (7) of this section, whichever penalty will result in the longer
23 period of revocation or court-ordered driving conditions.
- 24 (5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court
25 upon conviction. The court shall transmit the conviction records, and other
26 appropriate information to the Transportation Cabinet. A court shall not waive or
27 stay this procedure.

1 (6) Should a person convicted under this chapter whose license is revoked fail to
 2 surrender it to the court upon conviction, the court shall issue an order directing the
 3 sheriff or any other peace officer to seize the license forthwith and deliver it to the
 4 court.

5 (7) After a minimum of twelve (12) months from the effective date of the revocation, a
 6 person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of
 7 this section may move the court to reduce the period of revocation on a day-for-day
 8 basis for each day the person held a valid ignition interlock license under KRS
 9 189A.420 or used an alcohol monitoring device, but in no case shall the reduction
 10 reduce the period of ignition interlock use or alcohol monitoring device use to less
 11 than twelve (12) months. The court may, upon a written finding in the record for
 12 good cause shown, order such a period to be reduced to not less than twelve (12)
 13 months, if:

14 (a) **For ignition interlock use:**

15 1. The person maintained a valid ignition interlock license and did not
 16 operate a motor vehicle or motorcycle without a functioning ignition
 17 interlock device as provided for in KRS 189A.420;

18 ~~2. (b)~~ The person did not operate a motor vehicle or motorcycle in
 19 violation of any restrictions specified by the court; and

20 ~~3. (c)~~ The functioning ignition interlock device was installed on the
 21 motor vehicle or motorcycle for a period of time not less than twelve
 22 (12) months under subsection (1)(b), (c), or (d) of this section; or

23 **(b) For alcohol monitoring device use, the person did not consume alcohol or**
 24 **tamper with the alcohol monitoring device.**

25 (8) Upon a finding of a violation of any of the conditions specified in subsection (7) of
 26 this section or of the order permitting any reduction in a minimum period of
 27 revocation that is issued pursuant thereto, the court shall dissolve such an order and

1 the person shall receive no credit toward the minimum period of revocation required
 2 under subsection (1)(b), (c), or (d) of this section.

3 ➔Section 3. KRS 431.068 is amended to read as follows:

4 **(1) As used in this section, "alcohol monitoring device" means an electronic device**
 5 **that:**

6 **(a) Tests for alcohol concentration level through scheduled, random,**
 7 **continuous, or on-demand testing;**

8 **(b) Detects and records tampering attempts; and**

9 **(c) Transmits the data by means of either a telephone line or cellular uplink, or**
 10 **records the data for retrieval through methods approved by the court.**

11 **(2)** When considering the pretrial release of a person whose pretrial risk assessment
 12 indicates he or she is a moderate-risk or high-risk defendant, the court considering
 13 the release may order as a condition of pretrial release that the person use an alcohol
 14 monitoring device during all or part of the person's period of pretrial release.

15 **(3)** All costs associated with the alcohol monitoring device, including administrative
 16 and operating costs, shall be paid by the defendant. **However, a county attorney**
 17 **may establish an indigent fund to help pay the administrative and operating costs**
 18 **for indigent defendants**[As used in this section, "alcohol monitoring device" means
 19 an electronic device that:

20 ~~(1) Tests for alcohol concentration level through scheduled, random, continuous, or on-~~
 21 ~~demand testing;~~

22 ~~(2) Detects and records tampering attempts; and~~

23 ~~(3) Transmits the data by means of either a telephone line or cellular uplink, or records~~
 24 ~~the data for retrieval through methods approved by the court].~~