

1 AN ACT relating to operating a motor vehicle.

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

3 ➔Section 1. KRS 189.292 is amended to read as follows:

4 (1) As used in this section:~~[-,]~~

5 ***(a) "Personal communication device" means a device capable of two (2) way***
6 ***audio or text communication that emits an audible signal, vibrates, displays a***
7 ***message, or otherwise summons or delivers communication to the possessor,***
8 ***including but not limited to a paging device, tablet, laptop computer,***
9 ***personal digital assistant, global positioning system receiver, or***~~*[- and -a]*~~
10 ***cellular telephone;***

11 ***(b) "Stand-alone electronic device" means a portable device other than a***
12 ***personal communication device that stores audio or video data files to be***
13 ***retrieved on demand by a user;***

14 ***(c) "Operating a motor vehicle":***

15 ***1. Means to operate a motor vehicle on a public highway, including***
16 ***while temporarily stationary because of traffic, a traffic control device,***
17 ***or other momentary delays and circumstances in which the vehicle***
18 ***has pulled over to the side of an active roadway; and***

19 ***2. Does not include a circumstance in which the vehicle is lawfully***
20 ***parked; and***

21 ***(d) 1. "Use" or "uses" means:***

22 ***a. Holding a personal communication device in either or both***
23 ***hands or with any other body part;***

24 ***b. Reaching for a personal communication device or stand-alone***
25 ***electronic device in a manner that requires the driver to no***
26 ***longer be in a seated driving position or properly restrained by a***
27 ***safety belt;***

- 1 c. Watching a video or movie on a personal communication device
2 or stand-alone electronic device other than viewing data
3 mapping related to the navigation of the motor vehicle or the
4 static background on the personal communication device;
- 5 d. Recording or broadcasting video on a personal communication
6 device or a stand-alone electronic device. This prohibition shall
7 not apply to electronic devices used for the sole purpose of
8 continuously recording or broadcasting video within or outside
9 of the motor vehicle; or
- 10 e. The manual input of information into a global positioning or
11 navigation system that is physically mounted or electronically
12 integrated into the motor vehicle; and
- 13 2. "Use" or "uses" shall not mean:
- 14 a. Using an earpiece, headphone device, or device worn on a wrist
15 to conduct a voice-based communication;
- 16 b. The minimal use of a finger to activate, deactivate, or initiate a
17 function of the device;
- 18 c. The use of a personal communication device to automatically
19 convert a voice-based communication to be sent as a message in
20 a written form;
- 21 d. The use, by voice-based communication, of a global positioning
22 or navigation system that is physically mounted or electronically
23 integrated into the motor vehicle; or
- 24 e. The use of a citizens band radio, citizens band radio hybrid,
25 commercial two (2) way radio communication device or its
26 functional equivalent, subscription-based emergency
27 communication device, prescribed medical device, amateur or

1 ham radio device, or in-vehicle security or remote diagnostics
 2 system.

3 (2) Except as provided in subsection (3) of this section, ~~a~~ person shall **not use a**
 4 **personal communication device or stand-alone electronic device**, while
 5 operating a motor vehicle ~~that is in motion on the traveled portion of a roadway,~~
 6 ~~write, send, or read text-based communication using a personal communication~~
 7 ~~device to manually communicate with any person using text-based communication,~~
 8 ~~including but not limited to communications referred to as a text message, instant~~
 9 ~~message, or electronic mail.~~

10 (3) Subsection (2) of this section shall not apply to:

11 (a) ~~[The use of a global positioning system feature of a personal communication~~
 12 ~~device;~~

13 (b) ~~The use of a global positioning or navigation system that is physically or~~
 14 ~~electronically integrated into the motor vehicle;~~

15 (c) ~~The reading, selecting, or entering of a telephone number or name in a~~
 16 ~~personal communication device for the purpose of making a phone call;~~

17 (d) ~~]~~An operator of an emergency or public safety vehicle, when the use of a
 18 personal communication device is an essential function of the operator's
 19 official duties; ~~[or]~~

20 **(b)** ~~(e)~~ The operator of a motor vehicle who **uses** ~~[writes a text message on]~~ a
 21 personal communication device to:

- 22 1. Report illegal activity;
- 23 2. Summon medical help;
- 24 3. Summon a law enforcement or public safety agency; or
- 25 4. Prevent injury to a person or property; **or**

26 **(c) The operator of a school bus, who shall instead be subject to the provisions**
 27 **of KRS 281A.205.**

1 (4) *This section shall not prohibit the operation of a motor vehicle while using a*
 2 *device that is accessible through an interface that is embedded in a motor vehicle*
 3 *that allows communication without the use of either of the driver's hands, except*
 4 *to activate or deactivate a function of the device.*

5 (5) The secretary of the Transportation Cabinet may promulgate administrative
 6 regulations pursuant to KRS Chapter 13A to implement the provisions of this
 7 section, including but not limited to updates or advances in the automotive and
 8 information technology industries.

9 ➔Section 2. KRS 189.294 is amended to read as follows:

10 (1) As used in this section, *the following*~~["personal communication device"]~~ shall have
 11 the same meaning as defined in KRS 189.292:

12 *(a) "Personal communication device";*

13 *(b) "Stand-alone electronic device"; and*

14 *(c) "Operating a motor vehicle".*

15 (2) Any person under the age of eighteen (18) who has been issued an instruction
 16 permit, intermediate license, or operator's license shall not *use a personal*
 17 *communication device or stand-alone electronic device in any manner, including*
 18 *hands-free operation permitted under Section 1 of this Act, while*
 19 *operating*~~[operate]~~ a motor vehicle, ~~[motorcycle, or moped that is in motion on the~~
 20 ~~traveled portion of a roadway while using a personal communication device,~~
 21 ~~]except to summon medical help or a law enforcement or public safety agency in an~~
 22 emergency situation.

23 (3) ~~[Use of a personal communication device does not include a stand-alone global~~
 24 ~~positioning system, a global positioning or navigation system that is physically or~~
 25 ~~electronically integrated into the motor vehicle, or an in-vehicle security,~~
 26 ~~diagnostics, and communications system, but does include manually entering~~
 27 ~~information into the global positioning system feature of a personal communication~~

1 device.

2 ~~(4) This section shall not apply to the use of a citizens band radio or an amateur radio~~
3 ~~by a motor vehicle operator.~~

4 ~~(5)~~ The secretary of the Transportation Cabinet may promulgate administrative
5 regulations pursuant to KRS Chapter 13A to implement the provisions of this
6 section, including but not limited to updates or advances in the automotive and
7 information technology industries.

8 ➔Section 3. KRS 189.990 is amended to read as follows:

9 (1) Any person who violates any of the provisions of KRS 189.020 to 189.040,
10 subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to
11 (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to
12 (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS
13 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to
14 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590,
15 except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (6) of
16 KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor
17 more than one hundred dollars (\$100) for each offense. Any person who violates
18 subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20)
19 nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not
20 more than one (1) year, or both, unless the accident involved death or serious
21 physical injury and the person knew or should have known of the death or serious
22 physical injury, in which case the person shall be guilty of a Class D felony. Any
23 person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined
24 not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court
25 costs nor fees shall be taxed against any person violating paragraph (c) of
26 subsection (5) of KRS 189.390.

27 (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221,

1 189.222, 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents
2 (\$0.02) per pound for each pound of excess load when the excess is five
3 thousand (5,000) pounds or less. When the excess exceeds five thousand
4 (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of
5 excess load, but the fine levied shall not be less than one hundred dollars
6 (\$100) and shall not be more than five hundred dollars (\$500).

7 (b) Any person who violates the provisions of KRS 189.271 and is operating on a
8 route designated on the permit shall be fined one hundred dollars (\$100);
9 otherwise, the penalties in paragraph (a) of this subsection shall apply.

10 (c) Any person who violates any provision of subsection (2) or (3) of KRS
11 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270,
12 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which
13 another penalty is not specifically provided shall be fined not less than ten
14 dollars (\$10) nor more than five hundred dollars (\$500).

15 (d) 1. Any person who violates the provisions of KRS 177.985 while operating
16 on a route designated in KRS 177.986 shall be fined one hundred dollars
17 (\$100).

18 2. Any person who operates a vehicle with a permit under KRS 177.985 in
19 excess of eighty thousand (80,000) pounds while operating on a route
20 not designated in KRS 177.986 shall be fined one thousand dollars
21 (\$1,000).

22 (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to
23 prejudice or affect the authority of the Department of Vehicle Regulation to
24 suspend or revoke certificates of common carriers, permits of contract
25 carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221
26 to 189.228 or any other act applicable to motor vehicles, as provided by law.

27 (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not

- 1 more than fifteen dollars (\$15).
- 2 (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not
3 less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- 4 (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not
5 less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- 6 (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210
7 shall be fined not less than twenty-five dollars (\$25) nor more than one
8 hundred dollars (\$100).
- 9 (c) All fines collected under this subsection, after payment of commissions to
10 officers entitled thereto, shall go to the county road fund if the offense is
11 committed in the county, or to the city street fund if committed in the city.
- 12 (5) Any person who violates KRS 189.370 shall for the first offense be fined not less
13 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or
14 imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For
15 each subsequent offense occurring within three (3) years, the person shall be fined
16 not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500)
17 or imprisoned not less than sixty (60) days nor more than six (6) months, or both.
18 The minimum fine for this violation shall not be subject to suspension. A minimum
19 of six (6) points shall be assessed against the driving record of any person
20 convicted.
- 21 (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars
22 (\$15) in excess of the cost of the repair of the road.
- 23 (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than
24 twenty dollars (\$20) nor more than fifty dollars (\$50).
- 25 (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not
26 less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- 27 (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-

1 five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned
2 not less than thirty (30) days nor more than twelve (12) months, or both.

3 (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-
4 five dollars (\$35) nor more than one hundred dollars (\$100).

5 (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a
6 Class B misdemeanor.

7 (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than
8 thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.

9 (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of
10 this section shall, in the case of a public highway, be paid into the county road fund,
11 and, in the case of a privately owned road or bridge, be paid to the owner. These
12 fines shall not bar an action for damages for breach of contract.

13 (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not
14 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
15 offense.

16 (14) Any person who violates any provision of KRS 189.575 shall be fined not less than
17 twenty dollars (\$20) nor more than twenty-five dollars (\$25).

18 (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than
19 twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

20 (16) Any person who violates restrictions or regulations established by the secretary of
21 transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense,
22 be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not
23 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or
24 imprisoned for thirty (30) days, or both.

25 (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty
26 of a Class B misdemeanor.

27 (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in

1 case of violation by any person in whose name the vehicle used in the
2 transportation of inflammable liquids or explosives is licensed, the person
3 shall be fined not less than one hundred dollars (\$100) nor more than five
4 hundred dollars (\$500). Each violation shall constitute a separate offense.

5 (18) Any person who abandons a vehicle upon the right-of-way of a state highway for
6 three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor
7 more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days
8 nor more than thirty (30) days.

9 (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor,
10 unless the offense is being committed by a defendant fleeing the commission of a
11 felony offense which the defendant was also charged with violating and was
12 subsequently convicted of that felony, in which case it is a Class A misdemeanor.

13 (20) Any law enforcement agency which fails or refuses to forward the reports required
14 by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

15 (21) A person who operates a bicycle in violation of the administrative regulations
16 promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10)
17 nor more than one hundred dollars (\$100).

18 (22) Any person who violates KRS 189.860 shall be fined not more than five hundred
19 dollars (\$500) or imprisoned for not more than six (6) months, or both.

20 (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five
21 dollars (\$25) nor more than three hundred dollars (\$300).

22 (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty
23 dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this
24 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
25 court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765,
26 or any other additional fees or costs.

27 (25) Any person who violates the provisions of KRS 189.125(3)(b) shall ~~not be issued a~~

1 ~~uniform citation, but shall instead receive a courtesy warning up until July 1, 2009.~~
2 ~~For a violation on or after July 1, 2009, the person shall~~ be fined thirty dollars
3 (\$30). This fine shall be subject to prepayment. A fine imposed under this
4 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
5 court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or
6 any other additional fees or costs. A person who has not been previously charged
7 with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting
8 the requirements of KRS 189.125. Upon presentation of sufficient proof of the
9 acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

10 (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an
11 amount not to exceed twenty-five dollars (\$25). This fine shall be subject to
12 prepayment. A fine imposed under this subsection shall not be subject to court costs
13 pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee
14 imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

15 (27) Fines levied pursuant to this chapter shall be assessed in the manner required by
16 KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall
17 be governed by KRS 534.020 and 534.060.

18 (28) A licensed driver under the age of eighteen (18) charged with a moving violation
19 pursuant to this chapter as the driver of a motor vehicle may be referred, prior to
20 trial, by the court to a diversionary program. The diversionary program under this
21 subsection shall consist of one (1) or both of the following:

22 (a) Execution of a diversion agreement which prohibits the driver from operating
23 a vehicle for a period not to exceed forty-five (45) days and which allows the
24 court to retain the driver's operator's license during this period; and

25 (b) Attendance at a driver improvement clinic established pursuant to KRS
26 186.574. If the person completes the terms of this diversionary program
27 satisfactorily the violation shall be dismissed.

- 1 (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall
 2 be fined two hundred fifty dollars (\$250). The fines and costs for a violation of
 3 subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in
 4 accordance with KRS 24A.180. Once deposited into the State Treasury, ninety
 5 percent (90%) of the fine collected under this subsection shall immediately be
 6 forwarded to the personal care assistance program under KRS 205.900 to 205.920.
 7 Ten percent (10%) of the fine collected under this subsection shall annually be
 8 returned to the county where the violation occurred and distributed equally to all
 9 law enforcement agencies within the county.
- 10 (30) **Prior to October 1, 2020,** any person who violates KRS 189.292~~[or 189.294]~~ shall
 11 **not be issued a uniform citation, but shall instead receive a courtesy warning. On**
 12 **or after October 1, 2020, any person who violates KRS 189.292 shall** be fined:
 13 **(a) Except as provided in paragraph (d) of this subsection, an amount of at**
 14 **least fifty dollars (\$50) but not more than one hundred dollars (\$100) for a**
 15 **first or second offense;**~~[twenty five dollars (\$25) for the first offense and fifty~~
 16 ~~dollars (\$50) for each subsequent offense.]~~
 17 **(b) An amount of at least one hundred dollars (\$100) but not more than one**
 18 **hundred ninety-nine dollars (\$199) for a third or subsequent offense, or if**
 19 **the violation results in an accident;**
 20 **(c) An amount of at least two hundred dollars (\$200) but not more than two**
 21 **hundred fifty dollars(\$250) if the violation occurs:**
 22 **1. In a work zone when employees of the department or construction**
 23 **workers are present; or**
 24 **2. In a marked school zone when any warning flasher is in operation; or**
 25 **(d) For a first offense of any type under this subsection, regardless of the**
 26 **circumstances of the offense, a person may choose to attend a state traffic**
 27 **school established pursuant to KRS 186.574 in lieu of paying a fine.**

1 ➔Section 4. KRS 189.2327 is amended to read as follows:

- 2 (1) Subject to the requirements of subsection (2) of this section, **and except as provided**
3 **for in subsection (30) of Section 3 of this Act,** if a violation of KRS 189.290 to
4 189.580 or 189.910 to 189.960 occurred in a highway work zone, the fine
5 established under KRS 189.394, 189.990, or 189.993 shall be doubled.
- 6 (2) In order for a fine to be doubled under this section, the highway work zone must
7 have:
- 8 (a) Signs displayed informing drivers of the existence of a highway work zone
9 and that fines are doubled in it; and
- 10 (b) At least one (1) bona fide worker present.
- 11 (3) All fines collected for violations in a highway work zone under subsection (1) of
12 this section shall be deposited into a separate trust and agency account within the
13 Transportation Cabinet known as the "highway work zone safety fund." The
14 highway work zone safety fund shall be used exclusively by the Transportation
15 Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway
16 work zones.

17 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO
18 READ AS FOLLOWS:

19 **A person who holds or is required to hold a commercial driver's license shall be subject**
20 **to Section 1 of this Act. However, if the penalties under federal regulation for conduct**
21 **prohibited under Section 1 of this Act are more stringent than the penalties outlined in**
22 **Section 2 of this Act, the person shall be subject to the penalties under federal**
23 **regulation.**

24 ➔Section 6. This Act may be cited as the Phone-Down Kentucky Act.