

1 AN ACT relating to driving under the influence.

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

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

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

- 6 (1) He or she has given his or her consent to one (1) or more tests of his or her blood,
7 breath, and urine, or combination thereof, for the purpose of determining alcohol
8 concentration or presence of a substance which may impair one's driving ability, if
9 an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or
10 189.520(1) has occurred;
- 11 (2) Any person who is dead, unconscious, or otherwise in a condition rendering him or
12 her incapable of refusal is deemed not to have withdrawn the consent provided in
13 subsection (1) of this section, and the test may be given;
- 14 (3) (a) The breath, blood, and urine tests administered pursuant to this section shall
15 be administered at the direction of a peace officer having reasonable grounds
16 to believe the person has committed a violation of KRS 189A.010(1) or
17 189.520(1).
- 18 (b) Tests of the person's breath, blood, or urine, to be valid pursuant to this
19 section, shall have been performed according to the administrative regulations
20 promulgated by the secretary of the Justice and Public Safety Cabinet, and
21 shall have been performed, as to breath tests, only after a peace officer has
22 had the person under personal observation at the location of the test for a
23 minimum of twenty (20) minutes.
- 24 (c) All breath tests shall be administered by a peace officer holding a certificate
25 as an operator of a breath analysis instrument, issued by the secretary of the
26 Justice and Public Safety Cabinet or his or her designee;
- 27 (4) A breath test shall consist of a test which is performed in accordance with the

1 *standard operating procedures*~~[manufacturer's instructions or instructions]~~ adopted
2 by the Department of Criminal Justice Training ~~[and approved by the manufacturer~~
3]for the use of the instrument. The secretary of the Justice and Public Safety
4 Cabinet shall keep available for public inspection and provide, upon request and
5 without charge, copies of *the standard operating procedures*~~[these manufacturer's~~
6 ~~instructions or instructions]~~ adopted by the Department of Criminal Justice Training
7 ~~[and approved by the manufacturer]~~for all models of breath testing devices in use
8 by the Commonwealth of Kentucky;

9 (5) When the preliminary breath test, breath test, or other evidence gives the peace
10 officer reasonable grounds to believe there is impairment by a substance which is
11 not subject to testing by a breath test, then blood or urine tests, or both, may be
12 required in addition to a breath test, or in lieu of a breath test;

13 (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical
14 technologist not otherwise prohibited by law can withdraw any blood of any person
15 submitting to a test under this section; and

16 (7) After the person has submitted to all alcohol concentration tests and substance tests
17 requested by the officer, the person tested shall be permitted to have a person listed
18 in subsection (6) of this section of his or her own choosing administer a test or tests
19 in addition to any tests administered at the direction of the peace officer. Tests
20 conducted under this section shall be conducted within a reasonable length of time.
21 Provided, however, the nonavailability of the person chosen to administer a test or
22 tests in addition to those administered at the direction of the peace officer within a
23 reasonable time shall not be grounds for rendering inadmissible as evidence the
24 results of the test or tests administered at the direction of the peace officer.