

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.010 is amended to read as follows:

- 4 (1) A person shall not operate or be in physical control of a motor vehicle anywhere in
5 this state:
- 6 (a) Having an alcohol concentration of 0.08 or more as measured by a
7 scientifically reliable test or tests of a sample of the person's breath or blood
8 taken within two (2) hours of cessation of operation or physical control of a
9 motor vehicle;
 - 10 (b) While under the influence of alcohol;
 - 11 (c) While under the influence of any other substance or combination of
12 substances which impairs one's driving ability;
 - 13 (d) While the presence of a controlled substance listed in subsection (10)~~[(12)]~~ of
14 this section is detected in the blood, as measured by a scientifically reliable
15 test, or tests, taken within two (2) hours of cessation of operation or physical
16 control of a motor vehicle;
 - 17 (e) While under the combined influence of alcohol and any other substance which
18 impairs one's driving ability; or
 - 19 (f) Having an alcohol concentration of 0.02 or more as measured by a
20 scientifically reliable test or tests of a sample of the person's breath or blood
21 taken within two (2) hours of cessation of operation or physical control of a
22 motor vehicle, if the person is under the age of twenty-one (21).
- 23 (2) With the exception of the results of the tests administered pursuant to KRS
24 189A.103(7):
- 25 (a) If the sample of the person's blood or breath that is used to determine the
26 alcohol concentration thereof was obtained more than two (2) hours after
27 cessation of operation or physical control of a motor vehicle, the results of the

1 test or tests shall be inadmissible as evidence in a prosecution under
2 subsection (1)(a) or (f) of this section. The results of the test or tests, however,
3 may be admissible in a prosecution under subsection (1)(b) or (e) of this
4 section; or

5 (b) If the sample of the person's blood that is used to determine the presence of a
6 controlled substance was obtained more than two (2) hours after cessation of
7 operation or physical control of a motor vehicle, the results of the test or tests
8 shall be inadmissible as evidence in a prosecution under subsection (1)(d) of
9 this section. The results of the test or tests, however, may be admissible in a
10 prosecution under subsection (1)(c) or (e) of this section.

11 (3) In any prosecution for a violation of subsection (1)(b) or (e) of this section in which
12 the defendant is charged with having operated or been in physical control of a
13 motor vehicle while under the influence of alcohol, the alcohol concentration in the
14 defendant's blood as determined at the time of making analysis of his blood or
15 breath shall give rise to the following presumptions:

16 (a) If there was an alcohol concentration of less than 0.04 based upon the
17 definition of alcohol concentration in KRS 189A.005, it shall be presumed
18 that the defendant was not under the influence of alcohol; and

19 (b) If there was an alcohol concentration of 0.04 or greater but less than 0.08
20 based upon the definition of alcohol concentration in KRS 189A.005, that fact
21 shall not constitute a presumption that the defendant either was or was not
22 under the influence of alcohol, but that fact may be considered, together with
23 other competent evidence, in determining the guilt or innocence of the
24 defendant.

25 The provisions of this subsection shall not be construed as limiting the introduction
26 of any other competent evidence bearing upon the questions of whether the
27 defendant was under the influence of alcohol or other substances, in any

1 prosecution for a violation of subsection (1)(b) or (e) of this section.

2 (4) (a) Except as provided in paragraph (b) of this subsection, the fact that any person
3 charged with violation of subsection (1) of this section is legally entitled to
4 use any substance, including alcohol, shall not constitute a defense against
5 any charge of violation of subsection (1) of this section.

6 (b) A laboratory test or tests for a controlled substance shall be inadmissible as
7 evidence in a prosecution under subsection (1)(d) of this section upon a
8 finding by the court that the defendant consumed the substance under a valid
9 prescription from a practitioner, as defined in KRS 218A.010, acting in the
10 course of his or her professional practice. However, a laboratory test for a
11 controlled substance may be admissible as evidence in a prosecution under
12 subsection (1)(c) or (e) of this section.

13 (5) Any person who violates the provisions of ~~paragraph (a), (b), (c), (d), or (e) of~~
14 ~~subsection (1) of this section shall:~~

15 (a) For the first offense within a ten (10) year period, be fined not less than two
16 hundred dollars (\$200) nor more than five hundred dollars (\$500), or be
17 imprisoned in the county jail for not less than forty-eight (48) hours nor more
18 than thirty (30) days, or both. Following sentencing, the defendant may apply
19 to the judge for permission to enter a community labor program for not less
20 than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or
21 imprisonment, or both. If any of the aggravating circumstances listed in
22 subsection ~~(9)~~~~(11)~~ of this section are present while the person was operating
23 or in physical control of a motor vehicle, the mandatory minimum term of
24 imprisonment shall be four (4) days, which term shall not be suspended,
25 probated, conditionally discharged, or subject to any other form of early
26 release;

27 (b) For the second offense within a ten (10) year period, be fined not less than

1 three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500)
2 and shall be imprisoned in the county jail for not less than seven (7) days nor
3 more than six (6) months and, in addition to fine and imprisonment, may be
4 sentenced to community labor for not less than ten (10) days nor more than
5 six (6) months. If any of the aggravating circumstances listed in subsection
6 (9)~~[(11)]~~ of this section are present, the mandatory minimum term of
7 imprisonment shall be fourteen (14) days, which term shall not be suspended,
8 probated, conditionally discharged, or subject to any other form of early
9 release;

10 (c) For a third offense within a ten (10) year period, be fined not less than five
11 hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall
12 be imprisoned in the county jail for not less than thirty (30) days nor more
13 than twelve (12) months and may, in addition to fine and imprisonment, be
14 sentenced to community labor for not less than thirty (30) days nor more than
15 twelve (12) months. If any of the aggravating circumstances listed in
16 subsection (9)~~[(11)]~~ of this section are present, the mandatory minimum term
17 of imprisonment shall be sixty (60) days, which term shall not be suspended,
18 probated, conditionally discharged, or subject to any other form of early
19 release;

20 (d) For a fourth or subsequent offense within a ten (10) year period, be guilty of a
21 Class D felony. If any of the aggravating circumstances listed in subsection
22 (9)~~[(11)]~~ of this section are present, the mandatory minimum term of
23 imprisonment shall be two hundred forty (240) days, which term shall not be
24 suspended, probated, conditionally discharged, or subject to any other form of
25 release; and

26 (e) For purposes of this subsection, prior offenses shall include all convictions in
27 this state, and any other state or jurisdiction, for operating or being in control

1 of a motor vehicle while under the influence of alcohol or other substances
2 that impair one's driving ability, or any combination of alcohol and such
3 substances, or while having an unlawful alcohol concentration, or driving
4 while intoxicated~~[, but shall not include convictions for violating subsection~~
5 ~~(1)(f) of this section]~~. A court shall receive as proof of a prior conviction a
6 copy of that conviction, certified by the court ordering the conviction.

7 ~~[(6) Any person who violates the provisions of subsection (1)(f) of this section shall be~~
8 ~~fined no less than one hundred dollars (\$100) and no more than five hundred dollars~~
9 ~~(\$500), or sentenced to twenty (20) hours of community service in lieu of a fine. A~~
10 ~~person subject to the penalties of this subsection shall not be subject to the penalties~~
11 ~~established in subsection (5) of this section or any other penalty established~~
12 ~~pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1) and~~
13 ~~KRS 189A.070.~~

14 ~~(7) If the person is under the age of twenty one (21) and there was an alcohol~~
15 ~~concentration of 0.08 or greater based on the definition of alcohol concentration in~~
16 ~~KRS 189A.005, the person shall be subject to the penalties established pursuant to~~
17 ~~subsection (5) of this section.]~~

18 (6)~~[(8)]~~ For a second or third offense within a ten (10) year period, the minimum
19 sentence of imprisonment or community labor shall not be suspended, probated, or
20 subject to conditional discharge or other form of early release. For a fourth or
21 subsequent offense under this section, the minimum term of imprisonment shall be
22 one hundred twenty (120) days, and this term shall not be suspended, probated, or
23 subject to conditional discharge or other form of early release. For a second or
24 subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall
25 be served consecutively.

26 (7)~~[(9)]~~ When sentencing persons under subsection (5)(a) of this section, at least one
27 (1) of the penalties shall be assessed and that penalty shall not be suspended,

1 probated, or subject to conditional discharge or other form of early release.

2 (8)~~(10)~~ In determining the ten (10) year period under this section, the period shall be
3 measured from the dates on which the offenses occurred for which the judgments of
4 conviction were entered.

5 (9)~~(11)~~ For purposes of this section, aggravating circumstances are any one (1) or
6 more of the following:

7 (a) Operating a motor vehicle in excess of thirty (30) miles per hour above the
8 speed limit;

9 (b) Operating a motor vehicle in the wrong direction on a limited access highway;

10 (c) Operating a motor vehicle that causes an accident resulting in death or serious
11 physical injury as defined in KRS 500.080;

12 (d) Operating a motor vehicle while the alcohol concentration in the operator's
13 blood or breath is 0.15 or more as measured by a test or tests of a sample of
14 the operator's blood or breath taken within two (2) hours of cessation of
15 operation of the motor vehicle;

16 (e) Refusing to submit to any test or tests of one's blood, breath, or urine
17 requested by an officer having reasonable grounds to believe the person was
18 operating or in physical control of a motor vehicle in violation of subsection
19 (1) of this section, except it shall not be considered an aggravating
20 circumstance for a first offense under subsection (5)(a) of this section; and

21 (f) Operating a motor vehicle that is transporting a passenger under the age of
22 twelve (12) years old.

23 (10)~~(12)~~ The substances applicable to a prosecution under subsection (1)(d) of this
24 section are:

25 (a) Any Schedule I controlled substance except marijuana;

26 (b) Alprazolam;

27 (c) Amphetamine;

- 1 (d) Buprenorphine;
- 2 (e) Butalbital;
- 3 (f) Carisoprodol;
- 4 (g) Cocaine;
- 5 (h) Diazepam;
- 6 (i) Hydrocodone;
- 7 (j) Meprobamate;
- 8 (k) Methadone;
- 9 (l) Methamphetamine;
- 10 (m) Oxycodone;
- 11 (n) Promethazine;
- 12 (o) Propoxyphene; and
- 13 (p) Zolpidem.

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

- 15 (1) (a) 1. Unless the person is under eighteen (18) years of age, in addition to the
- 16 penalties specified in KRS 189A.010, the Transportation Cabinet shall
- 17 suspend a person's license to operate a motor vehicle or motorcycle
- 18 upon conviction of KRS 189A.010(1).
- 19 2. Upon conviction of KRS 189A.010(1)(a), (b), (c), (d), or (e), the
- 20 Transportation Cabinet shall suspend a person's license to operate a
- 21 motor vehicle or motorcycle as follows:
 - 22 a. For the first offense within a ten (10) year period:
 - 23 i. For a person who is issued an ignition interlock license under
 - 24 KRS 189A.340 and who meets the ninety (90) consecutive
 - 25 day requirement within the first four (4) months of the
 - 26 issuance of the ignition interlock license, four (4) months;
 - 27 ii. For a person who is issued an ignition interlock license under

- 1 KRS 189A.340 but does not meet the ninety (90)
2 consecutive day requirement within the first four (4) months
3 of the issuance of the ignition interlock license, until the
4 person meets the ninety (90) consecutive day requirement or
5 six (6) months, whichever is shorter; or
- 6 iii. For all others, six (6) months;
- 7 b. For the second offense within a ten (10) year period:
- 8 i. For a person who is issued an ignition interlock license under
9 KRS 189A.340 and who meets the one hundred twenty (120)
10 consecutive day requirement within the first twelve (12)
11 months of the issuance of the ignition interlock license,
12 twelve (12) months;
- 13 ii. For a person who is issued an ignition interlock license under
14 KRS 189A.340 but does not meet the one hundred twenty
15 (120) consecutive day requirement within the first twelve
16 (12) months of the issuance of the ignition interlock license,
17 until the person meets the one hundred twenty (120)
18 consecutive day requirement or eighteen (18) months,
19 whichever is shorter; or
- 20 iii. For all others, eighteen (18) months;
- 21 c. For a third offense within a ten (10) year period:
- 22 i. For a person who is issued an ignition interlock license under
23 KRS 189A.340 and who meets the one hundred twenty (120)
24 consecutive day requirement within the first eighteen (18)
25 months of the issuance of the ignition interlock license,
26 eighteen (18) months;
- 27 ii. For a person who is issued an ignition interlock license under

- 1 KRS 189A.340 but does not meet the one hundred twenty
2 (120) consecutive day requirement within the first eighteen
3 (18) months of the issuance of the ignition interlock license,
4 until the person meets the one hundred twenty (120)
5 consecutive day requirement or thirty-six (36) months,
6 whichever is shorter; or
- 7 iii. For all others, thirty-six (36) months;
- 8 d. For a fourth or subsequent offense within a ten (10) year period:
- 9 i. For a person who is issued an ignition interlock license under
10 KRS 189A.340 and who meets the one hundred twenty (120)
11 consecutive day requirement within the first thirty (30)
12 months of the issuance of the ignition interlock license, thirty
13 (30) months;
- 14 ii. For a person who is issued an ignition interlock license under
15 KRS 189A.340 but does not meet the one hundred twenty
16 (120) consecutive day requirement within the first thirty (30)
17 months of the issuance of the ignition interlock license, until
18 the person meets the one hundred twenty (120) consecutive
19 day requirement or sixty (60) months, whichever is shorter;
20 or
- 21 iii. For all others, sixty (60) months;
- 22 e. If the conviction records transmitted to the Transportation Cabinet
23 pursuant to subsection (3) of this section show that a person was
24 convicted of a:
- 25 i. First offense of KRS 189A.010, the person's license shall be
26 suspended as provided in subdivision a. of this subparagraph;
- 27 ii. Second offense of KRS 189A.010, the person's license shall

1 be suspended as provided in subdivision b. of this
2 subparagraph;

3 iii. Third offense of KRS 189A.010, the person's license shall be
4 suspended as provided in subdivision c. of this subparagraph;
5 and

6 iv. Fourth or subsequent offense of KRS 189A.010, the person's
7 license shall be suspended as provided in subdivision d. of
8 this subparagraph; and

9 f. The license suspension shall be deemed effective on the date of
10 entry of the court's order or judgement for a conviction of KRS
11 189A.010.

12 3. Upon conviction of KRS 189A.010(1)(f), the Transportation Cabinet
13 shall suspend a person's license to operate a motor vehicle or motorcycle
14 as follows:

15 a. **For the first offense, one (1) year, ninety (90) days of which shall**
16 **not be reduced and during which no driving privileges of any**
17 **kind may be granted. After the mandatory minimum period, a**
18 **person may be issued an ignition interlock license under Section**
19 **3 of this Act for the remainder of the period of the**
20 **suspension**~~For a person who is issued an ignition interlock~~
21 ~~license under KRS 189A.340 and who meets the ninety (90)~~
22 ~~consecutive day requirement within the first four (4) months of the~~
23 ~~issuance of the ignition interlock license, four (4) months];~~

24 b. **For the second offense, two (2) years, one (1) year of which shall**
25 **not be reduced and during which no driving privileges of any**
26 **kind may be granted. After the mandatory minimum period, a**
27 **person may be issued an ignition interlock license under Section**

- 1 3 of this Act for the remainder of the period of the
 2 suspension ~~For a person who is issued an ignition interlock~~
 3 ~~license under KRS 189A.340 but does not meet the ninety (90)~~
 4 ~~consecutive day requirement within the first four (4) months of the~~
 5 ~~issuance of the ignition interlock license, until the person meets~~
 6 ~~the ninety (90) consecutive day requirement or six (6) months,~~
 7 ~~whichever is shorter]; or~~
- 8 c. For the third or subsequent offense, one (1) year during which
 9 no driving privileges of any kind may be granted, or until the
 10 person reaches the age of twenty-one (21), whichever will result
 11 in the longer period of suspension ~~For all others, six (6) months].~~
- 12 4. For purposes of this paragraph, "ninety (90) consecutive day
 13 requirement" and "one hundred twenty (120) consecutive day
 14 requirement" mean the requirements established in KRS
 15 189A.340(4)(b)2.
- 16 (b) For a person under the age of eighteen (18), in addition to the penalties
 17 specified in KRS 189A.010, the Transportation Cabinet shall suspend the
 18 person's license to operate a motor vehicle or motorcycle upon conviction of
 19 KRS 189A.010(1). The person shall have his or her license suspended until he
 20 or she reaches the age of eighteen (18) or as provided in paragraph (a) of this
 21 subsection, whichever penalty will result in the longer period of suspension.
- 22 (2) In addition to the period of license suspension set forth in subsection (1) of this
 23 section, no person shall be eligible for reinstatement of his or her full privilege to
 24 operate a motor vehicle or motorcycle until he or she has completed the alcohol or
 25 substance abuse education or treatment program ordered pursuant to KRS
 26 189A.040.
- 27 (3) Upon conviction of KRS 189A.010(1):

- 1 (a) A person shall surrender his or her license to operate a motor vehicle or
2 motorcycle to the court. Should the person fail to surrender his or her license
3 to the court, the court shall issue an order directing the sheriff or any other
4 peace officer to seize the license forthwith and deliver it to the court. The
5 court shall then forward the license to the Transportation Cabinet. This
6 paragraph shall not apply to a person who has previously surrendered his or
7 her license pursuant to KRS 189A.200; and
- 8 (b) The court shall immediately transmit the conviction records and other
9 appropriate information to the Transportation Cabinet. A court shall not waive
10 or stay this procedure.
- 11 (4) In determining the ten (10) year period under this section, the period shall be
12 measured from the dates on which the offenses occurred for which the judgments of
13 conviction were entered.
- 14 ➔Section 3. KRS 189A.340 is amended to read as follows:
- 15 (1) (a) If a person's license is suspended pursuant to this chapter and the initial
16 suspension was for a violation of KRS 189A.010(1)(a), (b), (e), or (f), the sole
17 license the person shall be eligible for is an ignition interlock license pursuant
18 to this section.
- 19 (b) If a person's license is suspended pursuant to this chapter and the initial
20 suspension was for a violation of KRS 189A.010(1)(c) or (d), the person shall
21 be eligible for an ignition interlock license pursuant to this section and may be
22 eligible for a hardship license pursuant to KRS 189A.410.
- 23 (2) (a) A person may apply for an ignition interlock license anytime, including after
24 receiving the notices under KRS 189A.105 or after his or her license has been
25 suspended pursuant to this chapter.
- 26 (b) If at the time the person applies for an ignition interlock license, the person's
27 license has been suspended pursuant to this chapter, the person shall be

1 authorized to drive to:

- 2 1. An ignition interlock device provider to have a functioning ignition
- 3 interlock device installed in his or her motor vehicle or motorcycle; and
- 4 2. The Transportation Cabinet to obtain an ignition interlock license;

5 This paragraph shall only apply within fourteen (14) days of the date printed
6 on the ignition interlock approval letter issued by the Transportation Cabinet
7 and if the person has the ignition interlock approval letter in the motor vehicle
8 or motorcycle.

9 (3) Before the Transportation Cabinet shall issue an ignition interlock license, the
10 person shall:

- 11 (a) Submit an application for an ignition interlock license;
- 12 (b) Provide proof of motor vehicle insurance;
- 13 (c) Provide an ignition interlock certificate of installation issued by an ignition
14 interlock device provider; and
- 15 (d) Provide any other information required by administrative regulations
16 promulgated by the Transportation Cabinet under KRS 189A.350.

17 (4) An ignition interlock license shall restrict the person to operating only a motor
18 vehicle or motorcycle equipped with a functioning ignition interlock device, unless
19 the person qualifies for an employer exemption under subsection (6) of this section.

20 This restriction shall remain in place for:

- 21 (a) If a person's license was suspended pretrial pursuant to KRS 189A.200, the
22 required suspension period under KRS 189A.200(6);
- 23 (b) *Except as provided in paragraph (e) of this subsection,* if a person's license
24 was suspended pursuant to KRS 189A.070 or 189A.107:
 - 25 1. The required suspension period under KRS 189A.070(1); and
 - 26 2. a. If the maximum suspension period under KRS 189A.070(1)(a) has
27 not yet been met, until the Transportation Cabinet has received a

1 declaration from the person's ignition interlock device provider, in
2 a form provided or approved by the cabinet, certifying that none of
3 the violations outlined in subdivision b. of this subparagraph has
4 occurred:

- 5 i. For a first offense within a ten (10) year period of KRS
6 189A.010(1)(a), (b), (c), (d), or (e)~~[or for any offense of~~
7 ~~KRS 189A.010(1)(f)]~~, in the ninety (90) consecutive days;
8 and
9 ii. For all subsequent offenses within a ten (10) year period of
10 KRS 189A.010(1)(a), (b), (c), (d), or (e), one hundred twenty
11 (120) consecutive days;

12 prior to the date of releasing the ignition interlock device
13 restriction.

14 b. If any of the following occur, it shall be a violation of the ninety
15 (90) or one hundred twenty (120) consecutive day requirement:

- 16 i. Failure to take any random breath alcohol concentration test
17 unless a review of the digital image confirms that the motor
18 vehicle or motorcycle was not occupied by a driver at the
19 time of the missed test;
20 ii. Failure to pass any random retest with a breath alcohol
21 concentration of 0.02 or lower unless a subsequent test
22 performed within ten (10) minutes registers a breath alcohol
23 concentration lower than 0.02, and the digital image
24 confirms the same person provided both samples;
25 iii. Failure of the person, or his or her designee, to appear at the
26 ignition interlock device provider when required for
27 maintenance, repair, calibration, monitoring, inspection, or

- 1 replacement of the device;
- 2 iv. Failure of the person to pay fees established pursuant to
- 3 subsection (7) of this section;
- 4 v. Tampering with an installed ignition interlock device with
- 5 the intent of rendering it defective; or
- 6 vi. Altering, concealing, hiding, or attempting to alter, conceal,
- 7 or hide, the person's identity from the ignition interlock
- 8 device's camera while providing a breath sample;
- 9 (c) If a person's license was suspended pursuant to KRS 189A.090, for the
- 10 required suspension period under KRS 189A.090(2);~~or~~
- 11 (d) If a person's license suspension was extended pursuant to KRS 189A.345, the
- 12 required suspension period under KRS 189A.345(1); or
- 13 (e) If a person's license was suspended pursuant to subsection (1)(a)3. of
- 14 Section 2 of this Act, for the required suspension period under subsection
- 15 (1)(a)3. of Section 2 of this Act.
- 16 (5) (a) The time period a person:
 - 17 1. Holds a valid ignition interlock license pursuant to this section; or
 - 18 2. Receives alcohol or substance abuse treatment in an inpatient residential
 - 19 facility;
 - 20 shall apply on a day-for-day basis toward satisfying the suspension periods
 - 21 detailed in subsection (4) of this section.
- 22 (b) Except as provided in paragraph (c) of this subsection, the Transportation
- 23 Cabinet shall give the person a day-for-day credit for any time period the
- 24 person:
 - 25 1. Held a valid ignition interlock license; or
 - 26 2. Received alcohol or substance abuse treatment in an inpatient residential
 - 27 facility.

- 1 (c) A person shall not receive day-for-day credit for days the person utilized the
2 employer exemption in accordance with subsection (6) of this section and
3 drove an employer's motor vehicle or motorcycle not equipped with a
4 functioning ignition interlock device.
- 5 (6) (a) A person with an ignition interlock license may operate a motor vehicle or
6 motorcycle not equipped with a functioning ignition interlock device if:
- 7 1. The person is required to operate an employer's motor vehicle or
8 motorcycle in the course and scope of employment; and
 - 9 2. The business entity that owns the motor vehicle or motorcycle is not
10 owned or controlled by the person.
- 11 (b) To qualify for the employer exemption, the person shall provide the
12 Transportation Cabinet with a sworn statement from his or her employer
13 stating that the person and business entity meet the requirements of paragraph
14 (a) of this subsection.
- 15 (7) (a) Except as provided in paragraph (c) of this subsection, an ignition interlock
16 device provider may charge the following fees:
- 17 1. An installation fee for an alternative fuel vehicle or a vehicle with a
18 push button starter not to exceed one hundred thirty dollars (\$130), an
19 installation fee for all other vehicles not to exceed one hundred dollars
20 (\$100);
 - 21 2. A monthly fee not to exceed one hundred dollars (\$100);
 - 22 3. A removal fee not to exceed thirty dollars (\$30);
 - 23 4. A reset fee not to exceed fifty dollars (\$50); or
 - 24 5. A missed appointment fee not to exceed thirty-five dollars (\$35).
- 25 (b) A person who is issued an ignition interlock license shall pay fees as
26 established in his or her lease agreement with the ignition interlock device
27 provider for any ignition interlock device installed in his or her motor vehicle

1 or motorcycle. However, the fees shall never be more than allowed under
2 paragraph (a) of this subsection and are subject to paragraph (c) of this
3 subsection.

4 (c) Any person who has an income:

- 5 1. At or below two hundred percent (200%) but above one hundred fifty
6 percent (150%) of the federal poverty guidelines, shall pay only
7 seventy-five percent (75%) of fees established pursuant to paragraph (a)
8 of this subsection;
- 9 2. At or below one hundred fifty percent (150%) but above one hundred
10 percent (100%) of the federal poverty guidelines, shall pay only fifty
11 percent (50%) of fees established pursuant to paragraph (a) of this
12 subsection; or
- 13 3. At or below one hundred percent (100%) of the federal poverty
14 guidelines, shall pay only twenty-five percent (25%) of fees established
15 pursuant to paragraph (a) of this subsection;

16 As used in this paragraph, "federal poverty guidelines" has the same meaning
17 as in KRS 205.5621. The Transportation Cabinet shall determine the person's
18 income and where that income places the person on the federal poverty
19 guidelines.

20 (d) Neither the Commonwealth, the Transportation Cabinet, nor any unit of state
21 or local government shall be responsible for payment of any costs associated
22 with an ignition interlock device.

23 (8) For a person issued an ignition interlock license under this section who is residing
24 outside of Kentucky, the Transportation Cabinet may accept an ignition interlock
25 certificate of installation from an ignition interlock device provider authorized to do
26 business in the state where the person resides if the ignition interlock device meets
27 the requirements of that state.

1 ➔Section 4. KRS 189A.040 is amended to read as follows:

- 2 (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a)~~[-or (6)]~~, the
3 court shall sentence the person to attend an alcohol or substance abuse education or
4 treatment program subject to the following terms and conditions for a first offender~~[-~~
5 ~~or a person convicted under KRS 189A.010(1)(f)]~~:
- 6 (a) The treatment or education shall be for a period of ninety (90) days and the
7 program shall provide an assessment of the defendant's alcohol or other
8 substance abuse problems, which shall be performed at the start of the
9 program;
 - 10 (b) Each defendant shall pay the cost of the education or treatment program up to
11 his ***or her*** ability to pay but no more than the actual cost of the treatment;
 - 12 (c) Upon written report to the court by the administrator of the program that the
13 defendant has completed the program recommended by the administrator
14 based upon the assessment of the defendant, the defendant shall be released
15 prior to the expiration of the ninety (90) day period; and
 - 16 (d) Failure to complete the education or treatment program or to pay the amount
17 specified by the court for education or treatment shall constitute contempt,
18 and the court shall, in addition to any other remedy for contempt, reinstitute
19 all penalties which were previously imposed but suspended or delayed
20 pending completion of the education or treatment program.
- 21 (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall
22 sentence the person to an alcohol or substance abuse treatment program subject to
23 the following terms and conditions for a second offender:
- 24 (a) The sentence shall be for a period of one (1) year and the program shall
25 provide an assessment of the defendant's alcohol or other substance abuse
26 problems, which shall be performed at the start of the program;
 - 27 (b) Each defendant shall pay the cost of the treatment program up to his ***or her***

- 1 ability to pay but no more than the actual cost of the treatment;
- 2 (c) Upon written report to the court by the administrator of the program that the
3 defendant has completed the program recommended by the administrator
4 based upon the assessment of the defendant, the defendant may be released
5 prior to the expiration of the one (1) year period; and
- 6 (d) Failure to complete the treatment program or to pay the amount specified by
7 the court for treatment shall constitute contempt of court and the court shall,
8 in addition to any other remedy for contempt, reinstitute all penalties which
9 were previously imposed but suspended or delayed pending the completion of
10 the treatment program.
- 11 (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court
12 shall sentence the person to an alcohol or substance abuse treatment program
13 subject to the following terms and conditions for a third or subsequent offender:
- 14 (a) The sentence shall be for a period of one (1) year and the program shall
15 provide an assessment of the defendant's alcohol or other substance abuse
16 problems, which shall be performed at the start of the program. The program
17 may be an inpatient or residential-type program;
- 18 (b) Each defendant shall pay the cost of the treatment program up to his or her
19 ability to pay but no more than the actual cost of the program;
- 20 (c) A defendant, upon written recommendation to the court by the administrator
21 of the program, may be released from the inpatient or residential program
22 prior to the expiration of one (1) year but shall be retained in the program on
23 an outpatient basis for the remainder of the year period; and
- 24 (d) Failure to complete the treatment program or to pay the amount specified by
25 the court for treatment shall constitute contempt of court, and the court shall,
26 in addition to any other remedy for contempt, reinstitute all penalties which
27 were previously imposed but suspended or delayed pending completion of the

1 treatment program.

2 (4) Costs of treatment or education programs which are paid from the service fee
3 established by KRS 189A.050, or from state or federal funds, or any combination
4 thereof, shall be deducted from the amount which the defendant must pay.

5 (5) For defendants who are Medicaid-eligible, alcohol or substance abuse treatment
6 under this section shall be authorized by the Department for Medicaid Services and
7 its contractors as Medicaid-eligible services and shall be subject to the same
8 medical necessity criteria and reimbursement methodology as for all other covered
9 behavioral health services.

10 (6) For the purposes of this section, "treatment" means service in an alcohol or
11 substance abuse education or treatment program or facility licensed, regulated, and
12 monitored by the Cabinet for Health and Family Services for services as required
13 under this section.

14 (7) The Cabinet for Health and Family Services shall promulgate administrative
15 regulations for the licensure of education and treatment facilities and programs for
16 offenders receiving education or treatment under this section. The criteria
17 developed by the Cabinet for Health and Family Services shall include:

18 (a) Manner of assessment;

19 (b) Appropriate education and treatment plans; and

20 (c) Referrals to other treatment providers.

21 (8) The participating facilities and programs shall be required to abide by these
22 standards and shall report completion to the Transportation Cabinet. Upon request,
23 the facility or program shall report to the courts regarding the progress of offenders
24 being treated pursuant to this section.

25 (9) Administrative decisions regarding the licensure of education and treatment
26 facilities and programs may be appealed, and upon appeal an administrative hearing
27 shall be conducted in accordance with KRS Chapter 13B.