

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 (12) of this
14 section is detected in the blood, as measured by a scientifically reliable test, or
15 tests, taken within two (2) hours of cessation of operation or physical control
16 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 *or her* blood
15 or 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
21 fact 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 (11) of this section are present while the person was operating or in
23 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 (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 (11) of this section are present, the mandatory minimum term of
17 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 (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 (8) (a) 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,
20 probated, or subject to conditional discharge or other form of early release.

21 (b) For a fourth or subsequent offense under this section, the minimum term of
22 imprisonment shall be one hundred twenty (120) days, and this term shall not
23 be suspended, probated, or subject to conditional discharge or other form of
24 early release.

25 (c) For a second or subsequent offense, at least forty-eight (48) hours of the
26 mandatory sentence shall be served consecutively.

27 (9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of

1 the penalties shall be assessed and that penalty shall not be suspended, probated, or
2 subject to conditional discharge or other form of early release.

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

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

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

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

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

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

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

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

24 (g) 1. Operating a motor vehicle while the operator's license is suspended
25 for a previous violation of this section or KRS 189A.090.

26 2. For purposes of this paragraph, an operator's license is suspended for
27 a violation of this section or KRS 189A.090 until the operator has his

1 or her privilege to operate a motor vehicle or motorcycle reinstated
 2 following a conviction for a violation of this section or KRS 189A.090.

3 (12) The substances applicable to a prosecution under subsection (1)(d) of this section
 4 are:

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

6 (b) Alprazolam;

7 (c) Amphetamine;

8 (d) Buprenorphine;

9 (e) Butalbital;

10 (f) Carisoprodol;

11 (g) Clonazepam;

12 (h) Cocaine;

13 (i)~~(h)~~ Cyclobenzaprine;

14 (j) Diazepam;

15 (k)~~(i)~~ Fentanyl;

16 (l) Hydrocodone;

17 (m)~~(j)~~ Meprobamate;

18 (n)~~(k)~~ Methadone;

19 (o)~~(l)~~ Methamphetamine;

20 (p)~~(m)~~ Oxycodone;

21 (q)~~(n)~~ Promethazine;

22 (r)~~(o)~~ Propoxyphene; and

23 (s)~~(p)~~ Zolpidem.

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

25 (1) (a) 1. Unless the person is under eighteen (18) years of age, in addition to the
 26 penalties specified in KRS 189A.010, the Transportation Cabinet shall
 27 suspend a person's license to operate a motor vehicle or motorcycle

- 1 upon conviction of KRS 189A.010(1).
- 2 2. Upon conviction of KRS 189A.010(1)(a), (b), (c), (d), or (e), the
- 3 Transportation Cabinet shall suspend a person's license to operate a
- 4 motor vehicle or motorcycle as follows:
- 5 a. For the first offense within a ten (10) year period:
- 6 i. For a person who is issued an ignition interlock license under
- 7 KRS 189A.340, six (6) months unless the person commits a
- 8 violation described in subsection (4)(b)2.b. of Section 4 of
- 9 this Act within the last ninety (90) days of the six (6) month
- 10 period, in which case the period of suspension shall
- 11 continue until the person meets the ninety (90) consecutive
- 12 day requirement; or ~~and who meets the ninety (90)~~
- 13 ~~consecutive day requirement within the first four (4) months~~
- 14 ~~of the issuance of the ignition interlock license, four (4)~~
- 15 ~~months;]~~
- 16 ii. ~~[For a person who is issued an ignition interlock license~~
- 17 ~~under KRS 189A.340 but does not meet the ninety (90)~~
- 18 ~~consecutive day requirement within the first four (4) months~~
- 19 ~~of the issuance of the ignition interlock license, until the~~
- 20 ~~person meets the ninety (90) consecutive day requirement or~~
- 21 ~~six (6) months, whichever is shorter; or~~
- 22 iii. ~~]~~For all others, nine (9)~~[six (6)]~~ months;
- 23 b. For the second offense within a ten (10) year period:
- 24 i. For a person who is issued an ignition interlock license under
- 25 KRS 189A.340, twelve (12) months unless the person
- 26 commits a violation described in subsection (4)(b)2.b. of
- 27 Section 4 of this Act within the last one hundred twenty

- 1 (120) days of the twelve (12) month period, in which case
2 the period of suspension shall continue until the person
3 meets the one hundred twenty (120) consecutive day
4 requirement; or [~~and who meets the one hundred twenty~~
5 [~~(120) consecutive day requirement within the first twelve~~
6 [~~(12) months of the issuance of the ignition interlock license,~~
7 [~~twelve (12) months;~~]
- 8 ii. [~~For a person who is issued an ignition interlock license~~
9 [~~under KRS 189A.340 but does not meet the one hundred~~
10 [~~twenty (120) consecutive day requirement within the first~~
11 [~~twelve (12) months of the issuance of the ignition interlock~~
12 [~~license, until the person meets the one hundred twenty (120)~~
13 [~~consecutive day requirement or eighteen (18) months,~~
14 [~~whichever is shorter; or~~
- 15 iii. [~~For all others, eighteen (18) months;~~
- 16 c. For a third offense within a ten (10) year period:
- 17 i. For a person who is issued an ignition interlock license under
18 KRS 189A.340, eighteen (18) months unless the person
19 commits a violation described in subsection (4)(b)2.b. of
20 Section 4 of this Act within the last one hundred twenty
21 (120) days of the eighteen (18) month period, in which case
22 the period of suspension shall continue until the person
23 meets the one hundred twenty (120) consecutive day
24 requirement; or [~~and who meets the one hundred twenty~~
25 [~~(120) consecutive day requirement within the first eighteen~~
26 [~~(18) months of the issuance of the ignition interlock license,~~
27 [~~eighteen (18) months;~~]

- 1 ii. ~~{For a person who is issued an ignition interlock license~~
2 ~~under KRS 189A.340 but does not meet the one hundred~~
3 ~~twenty (120) consecutive day requirement within the first~~
4 ~~eighteen (18) months of the issuance of the ignition interlock~~
5 ~~license, until the person meets the one hundred twenty (120)~~
6 ~~consecutive day requirement or thirty six (36) months,~~
7 ~~whichever is shorter; or~~
- 8 iii. ~~{For all others, thirty-six (36) months;~~
- 9 d. For a fourth or subsequent offense within a ten (10) year period:
- 10 i. For a person who is issued an ignition interlock license under
11 KRS 189A.340, *thirty (30) months unless the person*
12 *commits a violation described in subsection (4)(b)2.b. of*
13 *Section 4 of this Act within the last one hundred twenty*
14 *(120) days of the thirty (30) month period, in which case*
15 *the period of suspension shall continue until the person*
16 *meets the one hundred twenty (120) consecutive day*
17 *requirement; or* ~~{ and who meets the one hundred twenty~~
18 ~~(120) consecutive day requirement within the first thirty (30)~~
19 ~~months of the issuance of the ignition interlock license, thirty~~
20 ~~(30) months;}~~
- 21 ii. ~~{For a person who is issued an ignition interlock license~~
22 ~~under KRS 189A.340 but does not meet the one hundred~~
23 ~~twenty (120) consecutive day requirement within the first~~
24 ~~thirty (30) months of the issuance of the ignition interlock~~
25 ~~license, until the person meets the one hundred twenty (120)~~
26 ~~consecutive day requirement or sixty (60) months, whichever~~
27 ~~is shorter; or~~

- 1 iii.—}For all others, sixty (60) months;
- 2 e. If the conviction records transmitted to the Transportation Cabinet
- 3 pursuant to subsection (3) of this section show that a person was
- 4 convicted of a:
- 5 i. First offense of KRS 189A.010, the person's license shall be
- 6 suspended as provided in subdivision a. of this subparagraph;
- 7 ii. Second offense of KRS 189A.010, the person's license shall
- 8 be suspended as provided in subdivision b. of this
- 9 subparagraph;
- 10 iii. Third offense of KRS 189A.010, the person's license shall be
- 11 suspended as provided in subdivision c. of this subparagraph;
- 12 and
- 13 iv. Fourth or subsequent offense of KRS 189A.010, the person's
- 14 license shall be suspended as provided in subdivision d. of
- 15 this subparagraph; and
- 16 f. The license suspension shall be deemed effective on the date of
- 17 entry of the court's order or judgement for a conviction of KRS
- 18 189A.010.
- 19 3. Upon conviction of KRS 189A.010(1)(f), the Transportation Cabinet
- 20 shall suspend a person's license to operate a motor vehicle or motorcycle
- 21 *for six (6) months unless the person commits a violation described in*
- 22 *subsection (4)(b)2.b. of Section 4 of this Act within the last ninety (90)*
- 23 *days of the six (6) month period, in which case the period of*
- 24 *suspension shall continue until the person meets the ninety (90)*
- 25 *consecutive day requirement*~~as follows:~~
- 26 a.—For a person who is issued an ignition interlock license under KRS
- 27 ~~189A.340 and who meets the ninety (90) consecutive day~~

1 ~~requirement within the first four (4) months of the issuance of the~~
2 ~~ignition interlock license, four (4) months;~~

3 ~~b. For a person who is issued an ignition interlock license under KRS~~
4 ~~189A.340 but does not meet the ninety (90) consecutive day~~
5 ~~requirement within the first four (4) months of the issuance of the~~
6 ~~ignition interlock license, until the person meets the ninety (90)~~
7 ~~consecutive day requirement or six (6) months, whichever is~~
8 ~~shorter; or~~

9 ~~e. For all others, six (6) months].~~

10 4. For purposes of this paragraph, "ninety (90) consecutive day
11 requirement" and "one hundred twenty (120) consecutive day
12 requirement" mean the requirements established in KRS
13 189A.340(4)(b)2.

14 (b) For a person under the age of eighteen (18), in addition to the penalties
15 specified in KRS 189A.010, the Transportation Cabinet shall suspend the
16 person's license to operate a motor vehicle or motorcycle upon conviction of
17 KRS 189A.010(1). The person shall have his or her license suspended until he
18 or she reaches the age of eighteen (18) or as provided in paragraph (a) of this
19 subsection, whichever penalty will result in the longer period of suspension.

20 (2) In addition to the period of license suspension set forth in subsection (1) of this
21 section, no person shall be eligible for reinstatement of his or her full privilege to
22 operate a motor vehicle or motorcycle until he or she has completed the alcohol or
23 substance abuse education or treatment program ordered pursuant to KRS
24 189A.040.

25 (3) Upon conviction of KRS 189A.010(1):

26 (a) A person shall surrender his or her license to operate a motor vehicle or
27 motorcycle to the court. Should the person fail to surrender his or her license

1 to the court, the court shall issue an order directing the sheriff or any other
 2 peace officer to seize the license forthwith and deliver it to the court. The
 3 court shall then forward the license to the Transportation Cabinet. This
 4 paragraph shall not apply to a person who has previously surrendered his or
 5 her license pursuant to KRS 189A.200; and

6 (b) The court shall immediately transmit the conviction records and other
 7 appropriate information to the Transportation Cabinet. A court shall not waive
 8 or stay this procedure.

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

12 **(5) Any period of suspension imposed under this section, including a period of**
 13 **suspension for a person who has been issued an ignition interlock license, and**
 14 **the consecutive day requirements established in subsection (4)(b)2. of Section 4 of**
 15 **this Act, shall be tolled while a person is serving a sentence of imprisonment**
 16 **under Section 1 of this Act.**

17 ➔Section 3. KRS 189A.105 is amended to read as follows:

18 (1) A person's refusal to submit to tests under KRS 189A.103 shall result in suspension
 19 of his or her driving privilege as provided in this chapter.

20 (2) (a) At the time a breath, blood, or urine test is requested, the person shall be
 21 informed:

22 1. That, if the person refuses to submit to **a breath or urine test**~~such~~
 23 ~~tests~~]:

24 a. The fact of this refusal may be used against him or her in court as
 25 evidence of violating KRS 189A.010 and will result in suspension
 26 of his or her driver's license by the court at the time of
 27 arraignment; and

- 1 b. **If the person** is subsequently convicted of violating KRS
 2 189A.010(1):
 3 i. For a second or third time within a ten (10) year period, he or
 4 she will be subject to a mandatory minimum jail sentence
 5 which is twice as long as the mandatory minimum jail
 6 sentence imposed if he or she submits to the tests; and
 7 ii. His or her license will be suspended by the Transportation
 8 Cabinet;

- 9 2. **That, if the person refuses to submit to a blood test:**
 10 **a. The fact of this refusal will result in suspension of his or her**
 11 **driver's license by the court at the time of arraignment; and**
 12 **b. If the person is subsequently convicted of violation subsection (1)**
 13 **of Section 1 of this Act, his or her license will be suspended by**
 14 **the Transportation Cabinet:**

- 15 **3.** That, if a test is taken:
 16 a. The results of the test may be used against the person in court as
 17 evidence of violating KRS 189A.010(1); and
 18 b. The person has the right to have a test or tests of his or her blood
 19 performed by a person of his or her choosing described in KRS
 20 189A.103 within a reasonable time of his or her arrest at the
 21 expense of the person arrested; and

22 ~~4.~~ That although his or her license will be suspended, he or she may be
 23 eligible immediately for an ignition interlock license allowing him or
 24 her to drive during the period of suspension and, if he or she is
 25 convicted, he or she will receive a credit toward any other ignition
 26 interlock requirement arising from this arrest.

- 27 (b) Nothing in this subsection shall be construed to prohibit a judge of a court of

1 competent jurisdiction from issuing a search warrant or other court order
2 requiring a blood or urine test, or a combination thereof, of a defendant
3 charged with a violation of KRS 189A.010, or other statutory violation arising
4 from the incident. However, if the incident involves a motor vehicle accident
5 in which there was a fatality, the investigating peace officer shall seek such a
6 search warrant for blood testing unless the testing has already been done by
7 consent. If testing done pursuant to a warrant reveals the presence of alcohol
8 or any other substance that impaired the driving ability of a person who is
9 charged and convicted of a violation of KRS 189A.010(1), the sentencing
10 court shall require, in addition to any other sentencing provision, that the
11 defendant make restitution to the state for the cost of the testing.

- 12 (c) 1. When directed by a peace officer pursuant to a search warrant or other
13 court order issued under this subsection, a qualified medical professional
14 shall withdraw the sample of blood as soon as practicable and shall
15 deliver the sample to the requesting peace officer, or other peace officer
16 as directed by the requesting peace officer, provided that the collection
17 of the sample does not jeopardize the person's life, cause serious injury
18 to the person, or seriously impede the person's medical assessment, care,
19 or treatment.
- 20 2. The qualified medical professional authorized to withdraw the blood
21 sample and the medical care facility where the blood sample is drawn
22 shall be considered as acting in good faith once presented with a search
23 warrant or other court order issued under this subsection. The qualified
24 medical professional shall not require the person that is the subject of
25 the test or tests to provide any additional consent.
- 26 3. A qualified medical professional who administers any test under this
27 paragraph upon the request of a peace officer, and a medical care facility

1 where any test under this paragraph may be performed, shall not be
2 criminally liable solely for administering the requested test or civilly
3 liable for damages to the person tested solely for administering the
4 requested test except in cases of gross negligence or willful or wanton
5 misconduct.

6 (3) During the period immediately preceding the administration of any test, the person
7 shall be afforded an opportunity of at least ten (10) minutes but not more than
8 fifteen (15) minutes to attempt to contact and communicate with an attorney and
9 shall be informed of this right. Inability to communicate with an attorney during
10 this period shall not be deemed to relieve the person of his or her obligation to
11 submit to the tests and the penalties specified by KRS 189A.010 and 189A.107
12 shall remain applicable to the person upon refusal. Nothing in this section shall be
13 deemed to create a right to have an attorney present during the administration of the
14 tests, but the person's attorney may be present if the attorney can physically appear
15 at the location where the test is to be administered within the time period
16 established in this section.

17 (4) Immediately following the administration of the final test requested by the officer,
18 the person shall again be informed of his or her right to have a test or tests of his or
19 her blood performed by a person of his or her choosing described in KRS 189A.103
20 within a reasonable time of his or her arrest at the expense of the person arrested.
21 He or she shall then be asked "Do you want such a test?" The officer shall make
22 reasonable efforts to provide transportation to the tests.

23 ➔Section 4. KRS 189A.340 is amended to read as follows:

24 (1) (a) If a person's license is suspended pursuant to this chapter and the initial
25 suspension was for a violation of KRS 189A.010(1)(a), (b), (e), or (f), the sole
26 license the person shall be eligible for is an ignition interlock license pursuant
27 to this section.

- 1 (b) If a person's license is suspended pursuant to this chapter and the initial
2 suspension was for a violation of KRS 189A.010(1)(c) or (d), the person shall
3 be eligible for an ignition interlock license pursuant to this section and may be
4 eligible for a hardship license pursuant to KRS 189A.410.
- 5 (2) (a) A person may apply for an ignition interlock license anytime, including after
6 receiving the notices under KRS 189A.105 or after his or her license has been
7 suspended pursuant to this chapter.
- 8 (b) If at the time the person applies for an ignition interlock license, the person's
9 license has been suspended pursuant to this chapter, the person shall be
10 authorized to drive to:
- 11 1. An ignition interlock device provider to have a functioning ignition
12 interlock device installed in his or her motor vehicle or motorcycle; and
13 2. The Transportation Cabinet to obtain an ignition interlock license;
- 14 This paragraph shall only apply within fourteen (14) days of the date printed
15 on the ignition interlock approval letter issued by the Transportation Cabinet
16 and if the person has the ignition interlock approval letter in the motor vehicle
17 or motorcycle.
- 18 (3) Before the Transportation Cabinet shall issue an ignition interlock license, the
19 person shall:
- 20 (a) Submit an application for an ignition interlock license;
21 (b) Provide proof of motor vehicle insurance;
22 (c) Provide an ignition interlock certificate of installation issued by an ignition
23 interlock device provider; and
24 (d) Provide any other information required by administrative regulations
25 promulgated by the Transportation Cabinet under KRS 189A.350.
- 26 (4) An ignition interlock license shall restrict the person to operating only a motor
27 vehicle or motorcycle equipped with a functioning ignition interlock device, unless

1 the person qualifies for an employer exemption under subsection (6) of this section.

2 This restriction shall remain in place for:

3 (a) If a person's license was suspended pretrial pursuant to KRS 189A.200, the
4 required suspension period under KRS 189A.200(6);

5 (b) If a person's license was suspended pursuant to KRS 189A.070 or 189A.107:

6 1. The required suspension period under KRS 189A.070(1); and

7 2. a. If the maximum suspension period under KRS 189A.070(1)(a) has
8 not yet been met, until the Transportation Cabinet has received a
9 declaration from the person's ignition interlock device provider, in
10 a form provided or approved by the cabinet, certifying that none of
11 the violations outlined in subdivision b. of this subparagraph has
12 occurred:

13 i. For a first offense within a ten (10) year period of KRS
14 189A.010(1)(a), (b), (c), (d), or (e) or for any offense of KRS
15 189A.010(1)(f), in the ninety (90) consecutive days; and

16 ii. For all subsequent offenses within a ten (10) year period of
17 KRS 189A.010(1)(a), (b), (c), (d), or (e), one hundred twenty
18 (120) consecutive days;

19 prior to the date of releasing the ignition interlock device
20 restriction.

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

23 i. Failure to take any random breath alcohol concentration test
24 unless a review of the digital image confirms that the motor
25 vehicle or motorcycle was not occupied by a driver at the
26 time of the missed test;

27 ii. Failure to pass any random retest with a breath alcohol

- 1 concentration of 0.02 or lower unless a subsequent test
2 performed within ten (10) minutes registers a breath alcohol
3 concentration lower than 0.02, and the digital image
4 confirms the same person provided both samples;
- 5 iii. Failure of the person, or his or her designee, to appear at the
6 ignition interlock device provider when required for
7 maintenance, repair, calibration, monitoring, inspection, or
8 replacement of the device;
- 9 iv. Failure of the person to pay fees established pursuant to
10 subsection (7) of this section;
- 11 v. Tampering with an installed ignition interlock device with
12 the intent of rendering it defective; or
- 13 vi. Altering, concealing, hiding, or attempting to alter, conceal,
14 or hide, the person's identity from the ignition interlock
15 device's camera while providing a breath sample;
- 16 (c) If a person's license was suspended pursuant to KRS 189A.090, for the
17 required suspension period under KRS 189A.090(2); or
- 18 (d) If a person's license suspension was extended pursuant to KRS 189A.345, the
19 required suspension period under KRS 189A.345(1).
- 20 (5) (a) The time period a person:
- 21 1. Holds a valid ignition interlock license pursuant to this section; or
22 2. Receives alcohol or substance abuse treatment in an inpatient residential
23 facility;
- 24 shall apply on a day-for-day basis toward satisfying the suspension periods
25 detailed in subsection (4) of this section.
- 26 (b) Except as provided in paragraph (c) of this subsection, the Transportation
27 Cabinet shall give the person a day-for-day credit for any time period the

1 person:

- 2 1. Held a valid ignition interlock license; or
3 2. Received alcohol or substance abuse treatment in an inpatient residential
4 facility.

5 (c) A person shall not receive day-for-day credit for days the person utilized the
6 employer exemption in accordance with subsection (6) of this section and
7 drove an employer's motor vehicle or motorcycle not equipped with a
8 functioning ignition interlock device.

9 (6) (a) A person with an ignition interlock license may operate a motor vehicle or
10 motorcycle not equipped with a functioning ignition interlock device if:

- 11 1. The person is required to operate an employer's motor vehicle or
12 motorcycle in the course and scope of employment; and
13 2. The business entity that owns the motor vehicle or motorcycle is not
14 owned or controlled by the person.

15 (b) To qualify for the employer exemption, the person shall provide the
16 Transportation Cabinet with a sworn statement from his or her employer
17 stating that the person and business entity meet the requirements of paragraph
18 (a) of this subsection.

19 (7) (a) Except as provided in paragraph (c) of this subsection, an ignition interlock
20 device provider may charge the following fees:

- 21 1. An installation fee for:
22 a. An alternative fuel vehicle or a vehicle with a push button starter
23 not to exceed one hundred thirty dollars (\$130);~~;~~
24 b. ***An electric or hybrid vehicle, or a vehicle that requires an***
25 ***otherwise complex installation, not to exceed three hundred***
26 ***dollars (\$300); or***
27 c. ~~[An installation fee for]~~All other vehicles not to exceed one

- 1 hundred dollars (\$100);
- 2 2. A monthly fee not to exceed one hundred dollars (\$100);
- 3 3. A removal fee not to exceed thirty dollars (\$30);
- 4 4. A reset fee not to exceed fifty dollars (\$50); or
- 5 5. A missed appointment fee not to exceed thirty-five dollars (\$35).
- 6 (b) A person who is issued an ignition interlock license shall pay fees as
- 7 established in his or her lease agreement with the ignition interlock device
- 8 provider for any ignition interlock device installed in his or her motor vehicle
- 9 or motorcycle. However, the fees shall never be more than allowed under
- 10 paragraph (a) of this subsection and are subject to paragraph (c) of this
- 11 subsection.
- 12 (c) Any person who has an income:
- 13 1. At or below two hundred percent (200%) but above one hundred fifty
- 14 percent (150%) of the federal poverty guidelines, shall pay only
- 15 seventy-five percent (75%) of fees established pursuant to paragraph (a)
- 16 of this subsection;
- 17 2. At or below one hundred fifty percent (150%) but above one hundred
- 18 percent (100%) of the federal poverty guidelines, shall pay only fifty
- 19 percent (50%) of fees established pursuant to paragraph (a) of this
- 20 subsection; or
- 21 3. At or below one hundred percent (100%) of the federal poverty
- 22 guidelines, shall pay only twenty-five percent (25%) of fees established
- 23 pursuant to paragraph (a) of this subsection;
- 24 As used in this paragraph, "federal poverty guidelines" has the same meaning
- 25 as in KRS 205.5621. The Transportation Cabinet shall determine the person's
- 26 income and where that income places the person on the federal poverty
- 27 guidelines.

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

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