

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) "Operating a motor vehicle":**

6 **1. Means to operate a motor vehicle on a highway, including while**
7 **temporarily stationary because of traffic, a traffic control device, or**
8 **other momentary delays and circumstances; and**

9 **2. Does not include a circumstance in which the vehicle has pulled over**
10 **to the side of, or off, an active roadway and has stopped in a location**
11 **where it can safely remain stationary;**

12 **(b)** "Personal communication device" means a **portable** device capable of two (2)
13 way audio or text communication that emits an audible signal, vibrates,
14 displays a message, or otherwise summons or delivers communication to the
15 possessor, including but not limited to:

16 **1. A paging device;**

17 **2. A text-messaging device;**

18 **3. A stand-alone computer;**

19 **4. A tablet;**

20 **5. A laptop;**

21 **6. A notebook computer;**

22 **7. A personal digital assistant;**

23 **8. A global positioning system receiver;**

24 **9. A telephone;**

25 **10. A device capable of displaying a video, movie, broadcast television**
26 **image, or visual image;**

27 **11. Any substantially similar wireless device that is used to initiate or**

1 receive communication, information, or data; or ~~and a~~

2 12. A cellular telephone;

3 (c) "Stand-alone electronic device" means a portable device other than a
4 personal communication device that stores audio or video data files to be
5 retrieved on demand by a user; and

6 (d) 1. "Use" or "uses" means:

7 a. Holding a personal communication device or stand-alone
8 electronic device in either or both hands or with any other body
9 part;

10 b. Reaching for a personal communication device or stand-alone
11 electronic device in a manner that requires the driver to no
12 longer be in a seated driving position or properly restrained by a
13 safety belt;

14 c. Watching a video, movie, or live broadcast on a personal
15 communication device or stand-alone electronic device other
16 than viewing data mapping related to the navigation of the motor
17 vehicle or the static background on the personal communication
18 device;

19 d. Recording, posting, sending, or broadcasting a video, including a
20 video conference, or a still photograph on a personal
21 communication device or a stand-alone electronic device. This
22 prohibition shall not apply to electronic devices used for the sole
23 purpose of continuously recording or broadcasting a video
24 within or outside of the motor vehicle;

25 e. Reading from or manually entering data into a personal
26 communication device, including doing so for the purposes of
27 single messaging service (SMS) texting, emailing, instant

1 messaging, social media interaction, or engaging in any other
2 form of electronic data retrieval or electronic data
3 communications; or

4 f. Manually inputting information into a global positioning or
5 navigation system that is physically mounted or electronically
6 integrated into the motor vehicle.

7 2. "Use" or "uses" does not mean:

8 a. Utilizing an earpiece, headphone device, or device worn on a
9 wrist to conduct a voice-based communication;

10 b. Pressing a single button to activate, deactivate, or initiate a
11 feature or function of the device with a single touch or single
12 swipe, except those functions specified in subparagraph 1. of this
13 paragraph;

14 c. Utilizing a personal communication device to automatically
15 convert a voice-based communication to be sent as a message in
16 a written form;

17 d. Utilizing, by voice-based communication, a global positioning or
18 navigation system that is physically mounted or electronically
19 integrated into the motor vehicle; or

20 e. Operating a radio, citizens band radio, citizens band radio
21 hybrid, commercial two (2) way radio communication device or
22 its functional equivalent, subscription-based emergency
23 communication device, prescribed medical device, amateur or
24 ham radio device, or in-vehicle security or remote diagnostics
25 system.

26 (2) Except as provided in subsection (3) of this section, a[-no] person shall **not use a**
27 personal communication device or stand-alone electronic device[-] while

1 operating a motor vehicle~~[that is in motion on the traveled portion of a roadway,~~
 2 write, send, or read text based communication using a personal communication
 3 device to manually communicate with any person using text based communication,
 4 including but not limited to communications referred to as a text message, instant
 5 message, or electronic mail].

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

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

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

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

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

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

- 18 1. Report illegal activity;
- 19 2. Summon medical help;
- 20 3. Summon a law enforcement or public safety agency; or
- 21 4. Prevent injury to a person or property; **or**

22 **(c) An operator of a school bus, who shall instead be subject to the provisions**
 23 **of KRS 281A.205.**

24 (4) **This section shall not prohibit the operation of a motor vehicle while using a**
 25 **device that is accessible through an interface that is embedded in a motor vehicle**
 26 **that allows communication without the use of either of the driver's hands, except**
 27 **to activate, deactivate, or initiate the feature or function of the device with a**

1 single touch or swipe.

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

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

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

9 (a) "Operating a motor vehicle";

10 (b) "Personal communication device"; and

11 (c) "Stand-alone electronic device."

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

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

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

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

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

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

24 (2) (a) 1. Except as provided in subparagraph 2. of this paragraph, any person
25 who violates the weight provisions of KRS 189.212, 189.221, 189.222,
26 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents (\$0.02)
27 per pound for each pound of excess load when the excess is five

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

6 2. Any person who violates a posted bridge weight limit on a state-
7 maintained bridge that is more than seventy-five (75) years old shall be
8 fined:

9 a. Five hundred dollars (\$500) for the first offense;

10 b. One thousand dollars (\$1,000) for the second offense within a one
11 (1) year period; and

12 c. Two thousand dollars (\$2,000) for any subsequent offense within a
13 one (1) year period.

14 The Transportation Cabinet shall erect signs warning drivers of the
15 increased fines in this subparagraph. Signs erected under this
16 subparagraph shall be placed in such a manner that drivers are given
17 adequate warning in order to exit the road prior to crossing the bridge. If
18 warning signs are not erected in accordance with this subparagraph, the
19 fines in this subparagraph shall not apply and violators shall be fined
20 under subparagraph 1. of this paragraph.

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

24 (c) Any person who violates any provision of subsection (2) or (3) of KRS
25 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270,
26 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which
27 another penalty is not specifically provided shall be fined not less than ten

- 1 dollars (\$10) nor more than five hundred dollars (\$500).
- 2 (d) 1. Any person who violates the provisions of KRS 177.985 while operating
3 on a route designated in KRS 177.986 shall be fined one hundred dollars
4 (\$100).
- 5 2. Any person who operates a vehicle with a permit under KRS 177.985 in
6 excess of eighty thousand (80,000) pounds while operating on a route
7 not designated in KRS 177.986 shall be fined one thousand dollars
8 (\$1,000).
- 9 (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to
10 prejudice or affect the authority of the Department of Vehicle Regulation to
11 suspend or revoke certificates of common carriers, permits of contract
12 carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221
13 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- 14 (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not
15 more than fifteen dollars (\$15).
- 16 (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not
17 less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- 18 (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not
19 less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- 20 (b) Any peace officer who fails, when properly informed, to enforce KRS
21 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than
22 one hundred dollars (\$100).
- 23 (c) All fines collected under this subsection, after payment of commissions to
24 officers entitled thereto, shall go to the county road fund if the offense is
25 committed in the county, or to the city street fund if committed in the city.
- 26 (5) Any person who violates KRS 189.370 shall for the first offense be fined not less
27 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or

1 imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For
2 each subsequent offense occurring within three (3) years, the person shall be fined
3 not less than three hundred dollars (\$300) nor more than five hundred dollars
4 (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or
5 both. The minimum fine for this violation shall not be subject to suspension. A
6 minimum of six (6) points shall be assessed against the driving record of any person
7 convicted.

8 (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars
9 (\$15) in excess of the cost of the repair of the road.

10 (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than
11 twenty dollars (\$20) nor more than fifty dollars (\$50).

12 (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not
13 less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

14 (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-
15 five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned
16 not less than thirty (30) days nor more than twelve (12) months, or both.

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

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

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

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

27 (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not

1 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
2 offense.

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

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

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

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

14 (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in
15 case of violation by any person in whose name the vehicle used in the
16 transportation of inflammable liquids or explosives is licensed, the person
17 shall be fined not less than one hundred dollars (\$100) nor more than five
18 hundred dollars (\$500). Each violation shall constitute a separate offense.

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

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

27 (20) Any law enforcement agency which fails or refuses to forward the reports required

- 1 by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- 2 (21) A person who operates a bicycle in violation of the administrative regulations
3 promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10)
4 nor more than one hundred dollars (\$100).
- 5 (22) Any person who violates KRS 189.860 shall be fined not more than five hundred
6 dollars (\$500) or imprisoned for not more than six (6) months, or both.
- 7 (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five
8 dollars (\$25) nor more than three hundred dollars (\$300).
- 9 (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty
10 dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this
11 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
12 court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765,
13 or any other additional fees or costs.
- 14 (25) Any person who violates the provisions of KRS 189.125(3)(b) shall ~~not be issued a~~
15 ~~uniform citation, but shall instead receive a courtesy warning up until July 1, 2009.~~
16 ~~For a violation on or after July 1, 2009, the person shall~~ be fined thirty dollars
17 (\$30). This fine shall be subject to prepayment. A fine imposed under this
18 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
19 court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or
20 any other additional fees or costs. A person who has not been previously charged
21 with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting
22 the requirements of KRS 189.125. Upon presentation of sufficient proof of the
23 acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- 24 (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an
25 amount not to exceed twenty-five dollars (\$25). This fine shall be subject to
26 prepayment. A fine imposed under this subsection shall not be subject to court costs
27 pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee

1 imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

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

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

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

12 (b) Attendance at a driver improvement clinic established pursuant to KRS
13 186.574. If the person completes the terms of this diversionary program
14 satisfactorily the violation shall be dismissed.

15 (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall
16 be fined two hundred fifty dollars (\$250). The fines and costs for a violation of
17 subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in
18 accordance with KRS 24A.180. Once deposited into the State Treasury, ninety
19 percent (90%) of the fine collected under this subsection shall immediately be
20 forwarded to the personal care assistance program under KRS 205.900 to 205.920.
21 Ten percent (10%) of the fine collected under this subsection shall annually be
22 returned to the county where the violation occurred and distributed equally to all
23 law enforcement agencies within the county.

24 (30) **(a) Prior to January 1, 2026,** any person who violates KRS 189.292 or 189.294
25 **shall not be issued a uniform citation, but shall instead receive a courtesy**
26 **warning. On or after January 1, 2026, any person who violates Section 1 or**
27 **2 of this Act shall** be fined;

1 1. Except as provided in paragraph (b) of this subsection, not less than
 2 fifty dollars (\$50) nor more than one hundred dollars (\$100) for a first
 3 or second offense;~~[twenty five dollars (\$25) for the first offense and~~
 4 ~~fifty dollars (\$50) for each subsequent offense.]~~

5 2. Not less than one hundred dollars (\$100) nor more than one hundred
 6 ninety-nine dollars (\$199) for a third or subsequent offense, or if the
 7 violation results in an accident; and

8 3. Not less than two hundred dollars (\$200) nor more than two hundred
 9 fifty dollars (\$250) if the violation occurs:

10 a. In a work zone when employees of the department or
 11 construction workers are present; or

12 b. In a marked school zone when any warning flasher is in
 13 operation.

14 (b) Except as prohibited under KRS 281A.185 for a person who holds or is
 15 required to hold a commercial driver's license, for a first offense of any type
 16 under this subsection, regardless of the circumstances of the offense, a
 17 person may choose to attend a state traffic school established pursuant to
 18 KRS 186.574 in lieu of paying a fine.

19 (c) In addition to the penalties prescribed in this subsection, three (3) points
 20 shall be assessed against the driving record of any person who violates
 21 paragraph (a)2. or 3. of this subsection.

22 (31) Any person who violates KRS 189.281(5) or (7)(b) shall be subject to a fine of two
 23 hundred fifty dollars (\$250). This fine shall be subject to prepayment. A fine
 24 imposed under this subsection shall not be subject to court costs pursuant to KRS
 25 24A.175, additional costs pursuant to KRS 24A.176, the fee imposed pursuant to
 26 KRS 24A.1765, or any other additional fees or costs.

27 (32) Any person who violates subsection (3) or (4) of KRS 189.290 and causes physical

1 injury to a person shall be fined five hundred dollars (\$500).

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

- 3 (1) Subject to the requirements of subsection (2) of this section, **and except as provided**
4 **in subsection (30) of Section 3 of this Act,** if a violation of KRS 189.290 to
5 189.575 or 189.910 to 189.960 occurred in a highway work zone, the fine shall be:
- 6 (a) Five hundred dollars (\$500) if no person is physically injured or dies as a
7 result of the violation. Notwithstanding the provisions of KRS 189.999, the
8 fine under this paragraph is prepayable; and
- 9 (b) Not less than five hundred dollars (\$500) nor more than ten thousand dollars
10 (\$10,000) if the violation results in physical injury to or death of any person.
- 11 (2) (a) In order for an increased fine to be imposed under this section, the highway
12 work zone must have:
- 13 1. Signs displayed informing drivers of the existence of a highway work
14 zone and that fines are increased in it; and
- 15 2. At least one (1) bona fide worker present.
- 16 (b) If a violation of any of the offenses identified in subsection (1) of this section
17 can be classified as a misdemeanor, those penalties shall apply in addition to
18 the penalties in subsection (1) of this section.
- 19 (3) All fines collected for violations in a highway work zone under this section shall be
20 deposited into a separate trust and agency account within the Transportation
21 Cabinet known as the "highway work zone safety fund." The highway work zone
22 safety fund shall be used exclusively by the Transportation Cabinet to hire or pay
23 for enhanced law enforcement of traffic laws within highway work zones.

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

26 **A person who holds or is required to hold a commercial driver's license shall be subject**
27 **to Section 1 of this Act. However, if the penalties under federal regulation for conduct**

1 *prohibited under Section 1 of this Act are more stringent than the applicable penalties*
2 *outlined in Section 3 of this Act, the person shall be subject to the penalties under*
3 *federal regulation.*

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