

1 AN ACT relating to civil causes of action.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act, unless the context otherwise requires:*

6 *(1) "Contracting entity" means the Commonwealth, or any city, county, urban-*
7 *county government, consolidated local government, unified local government, or*
8 *charter county government;*

9 *(2) "Contractor" means any individual, corporation, limited liability company,*
10 *partnership, or other legal entity, and any subcontractor, director, officer, or*
11 *employee of the individual or legal entity that contracts with a contracting entity*
12 *to furnish labor, materials, equipment, and other incidentals necessary for*
13 *performance of work on a project;*

14 *(3) "Dangerous condition" means a condition that is not reasonably safe for the*
15 *intended use of the roadway and is capable of causing an individual physical*
16 *injury or death under the anticipated use of the roadway;*

17 *(4) "Latent defect" means a defect or omission resulting from the work performed or*
18 *materials provided by the contractor under the contract that was not discoverable,*
19 *visible, or apparent;*

20 *(5) "Project" means the construction, repair, or maintenance by a contractor of a*
21 *section of highway, road, bridge, or street together with all appurtenances, as*
22 *specified in a contract with a contracting entity; and*

23 *(6) "Specifications" means plans, traffic control requirements, communication*
24 *requirements, drawings, bid documents, or any other written or electronically*
25 *stored requirements and details the contractor agrees to perform.*

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) Acceptance of a project by the contracting entity shall create a rebuttable
2 presumption that the contractor has:

3 (a) Followed the plans and specifications of the contracting entity; and

4 (b) Satisfied the contractor's responsibility to the contracting entity.

5 (2) A contractor entitled to the rebuttable presumption established under subsection
6 (1) of this section shall not be liable for any claims for property damage, physical
7 injury, or death alleged to arise out of the work performed on the project in any
8 civil cause of action unless it is established by a preponderance of the evidence
9 that:

10 (a) A failure of the contractor to follow the plans and specifications, resulting
11 in a dangerous condition; or

12 (b) A latent defect creating a dangerous condition that is the result of the work
13 of the contractor;

14 was a substantial factor in causing the alleged property damage, physical injury,
15 or death.

16 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
17 READ AS FOLLOWS:

18 In any action for injury, damages, or wrongful death, whether in contract or in tort,
19 against a contracting entity or its contractor arising from any negligent act or omission
20 in the construction or maintenance of a public highway, road, bridge, or street, when it
21 is established by a preponderance of the evidence that:

22 (1) The operator of the vehicle engaged in conduct that would have supported a
23 violation of KRS 189A.010 or 189.292; or

24 (2) The vehicle was traveling at a rate of twenty-five (25) or more miles per hour over
25 the applicable speed limit;

26 there shall be a rebuttable presumption that the prohibited conduct was a substantial
27 factor in causing the injury, damages, or wrongful death.

1 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
2 READ AS FOLLOWS:

3 *A contractor shall bear no civil liability for:*

4 *(1) Any alleged property damage, personal injury, death, or other civil claims made*
5 *by a noncontractual third party arising from the design decisions or professional*
6 *engineering judgment, including decisions relating to the proper scope or*
7 *inspection of the project, of the contracting entity. This subsection shall not apply*
8 *when the contractor either:*

9 *(a) Contracts in whole or in part to design the project or to provide professional*
10 *engineering services related to the design of the project; or*

11 *(b) Undertakes to provide design or professional engineering services as to the*
12 *project; or*

13 *(2) Any dangerous condition that is outside the scope of the project or that is in*
14 *excess of any requirement of the governing plans and specifications provided by*
15 *the contracting entity, except when:*

16 *(a) The contractor contracts to design in whole or in part the project or to*
17 *provide engineering services related to the design of the project; or*

18 *(b) The contractor undertakes to provide services related to the project that are*
19 *outside the scope of the project or that are in excess of any requirement of*
20 *the governing plans and specifications.*

21 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
22 READ AS FOLLOWS:

23 *Sections 1 to 5 of this Act shall:*

24 *(1) Apply to any claim that arises on or after the effective date of this Act;*

25 *(2) Not bar or limit any claim or defense otherwise available, except as otherwise*
26 *provided in Sections 1 to 5 of this Act; and*

27 *(3) Not create a new theory upon which liability may be based.*