

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 KRS 189.292 IS REPEALED AND REENACTED TO READ
4 AS FOLLOWS:

5 *(1) As used in this section, "mobile electronic device":*

6 *(a) Means a cellular telephone, portable computer, global positioning system*
7 *receiver, electronic game, or any substantially similar stand-alone*
8 *electronic device used to communicate, display, or record digital content;*
9 *and*

10 *(b) Does not include a citizens band radio, amateur radio, ham radio,*
11 *commercial two (2) way radio or its functional equivalent, subscription-*
12 *based emergency communication device, or prescribed medical device.*

13 *(2) While operating a motor vehicle on any public highway in this Commonwealth, a*
14 *person shall not:*

15 *(a) Hold or support, with any part of the body, a mobile electronic device,*
16 *except that this paragraph shall not prohibit the use of an earpiece or device*
17 *worn on a wrist to conduct voice-based communication;*

18 *(b) Read, compose, or transmit any text, including but not limited to a text*
19 *message, email, application interaction, or website information, on a mobile*
20 *electronic device; or*

21 *(c) Watch moving images, including but not limited to a video, movie, game, or*
22 *video call, on a mobile electronic device.*

23 *(3) This section shall not apply to a motor vehicle operator who is:*

24 *(a) In a motor vehicle that is lawfully parked or stopped;*

25 *(b) Initiating a voice-based communication that is automatically converted by*
26 *the device and sent as text, if the device is not held by the operator or*
27 *supported with any part of the body by the operator;*

1 (c) Reporting an accident, emergency, or safety hazard to a public safety
2 official;

3 (d) Transmitting or receiving data as part of a digital dispatch system while:

4 1. Performing occupational duties; or

5 2. Conducting commercial testing or testing required by the Federal
6 Communications Commission;

7 (e) A first responder while performing official duties;

8 (f) Using a mobile electronic device for the purpose of:

9 1. Navigation, by listening to audio-based content or obtaining traffic
10 and road condition information in a manner that does not require the
11 operator to type, if the device is not held by the operator or supported
12 with any part of the body by the operator;

13 2. Initializing or ending a cellular call in a manner that does not require
14 the operator to type, if the device is not held by the operator or
15 supported with any part of the body by the operator; or

16 3. Unlocking the device for a purpose listed in subparagraph 1. or 2. of
17 this paragraph, if the device is not held by the operator or supported
18 with any part of the body by the operator; or

19 (g) Using equipment or services installed by the original manufacturer of the
20 vehicle.

21 (4) A peace officer shall not:

22 (a) Stop a person for a violation of this section unless the officer has visually
23 observed that a violation has occurred based on the officer's clear and
24 unobstructed view of a person who is unlawfully using a mobile electronic
25 device while operating a motor vehicle on the public highways of the
26 Commonwealth;

27 (b) Seize, search, view, or require the forfeiture of a mobile electronic device

1 because of a violation of this section;

2 (c) Search or request to search a motor vehicle, operator, or passenger in a
 3 motor vehicle solely because of a violation of this section; or

4 (d) Make a custodial arrest solely because of a violation of this section.

5 (5) The Transportation Cabinet shall install signage advising drivers of this section
 6 at every point where a state highway enters the Commonwealth, and at various
 7 points on state highways as determined by the cabinet.

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

9 (1) As used in this section, "mobile electronic device~~[personal communication device]~~"
 10 has~~[shall have]~~ the same meaning as ~~[defined]~~ in KRS 189.292.

11 (2) Any person under the age of eighteen (18) who has been issued an instruction
 12 permit, intermediate license, or operator's license shall not operate a motor vehicle,
 13 motorcycle, or moped that is in motion on the traveled portion of a roadway while
 14 using a mobile electronic device~~[personal communication device]~~, except to
 15 summon medical help or a law enforcement or public safety agency in an
 16 emergency situation.

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

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

25 (5) The secretary of the Transportation Cabinet may promulgate administrative
 26 regulations in accordance with~~[pursuant to]~~ KRS Chapter 13A to implement the
 27 provisions of this section, including but not limited to updates or advances in the

1 automotive and information technology industries.

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

- 3 (1) Any person who violates any of the provisions of KRS 189.020 to 189.040,
4 subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to
5 (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to
6 (4) of KRS 189.190, KRS 189.200, 189.285, subsection (1) or (2) of KRS 189.290,
7 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to
8 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540,
9 KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS
10 189.345, subsection (6) of KRS 189.456, and 189.960 shall be fined not less than
11 twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
12 Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less
13 than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or
14 imprisoned in the county jail for not more than one (1) year, or both, unless the
15 accident involved death or serious physical injury and the person knew or should
16 have known of the death or serious physical injury, in which case the person shall
17 be guilty of a Class D felony. Any person who violates paragraph (c) of subsection
18 (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than
19 thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person
20 violating paragraph (c) of subsection (5) of KRS 189.390.
- 21 (2) (a) 1. Except as provided in subparagraph 2. of this paragraph, any person
22 who violates the weight provisions of KRS 189.212, 189.221, 189.222,
23 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents (\$0.02)
24 per pound for each pound of excess load when the excess is five
25 thousand (5,000) pounds or less. When the excess exceeds five thousand
26 (5,000) pounds the fine shall be two cents (\$0.02) per pound for each
27 pound of excess load, but the fine levied shall not be less than one

1 hundred dollars (\$100) and shall not be more than five hundred dollars
2 (\$500).

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

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

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

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

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

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

21 (c) Any person who violates any provision of subsection (2) or (3) of KRS
22 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270,
23 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which
24 another penalty is not specifically provided shall be fined not less than ten
25 dollars (\$10) nor more than five hundred dollars (\$500).

26 (d) 1. Any person who violates the provisions of KRS 177.985 while operating
27 on a route designated in KRS 177.986 shall be fined one hundred dollars

- 1 (\$100).
- 2 2. Any person who operates a vehicle with a permit under KRS 177.985 in
3 excess of eighty thousand (80,000) pounds while operating on a route
4 not designated in KRS 177.986 shall be fined one thousand dollars
5 (\$1,000).
- 6 (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to
7 prejudice or affect the authority of the Department of Vehicle Regulation to
8 suspend or revoke certificates of common carriers, permits of contract
9 carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221
10 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- 11 (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not
12 more than fifteen dollars (\$15).
- 13 (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not
14 less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- 15 (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not
16 less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- 17 (b) Any peace officer who fails, when properly informed, to enforce KRS
18 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than
19 one hundred dollars (\$100).
- 20 (c) All fines collected under this subsection, after payment of commissions to
21 officers entitled thereto, shall go to the county road fund if the offense is
22 committed in the county, or to the city street fund if committed in the city.
- 23 (5) Any person who violates KRS 189.370 shall for the first offense be fined not less
24 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or
25 imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For
26 each subsequent offense occurring within three (3) years, the person shall be fined
27 not less than three hundred dollars (\$300) nor more than five hundred dollars

- 1 (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or
2 both. The minimum fine for this violation shall not be subject to suspension. A
3 minimum of six (6) points shall be assessed against the driving record of any person
4 convicted.
- 5 (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars
6 (\$15) in excess of the cost of the repair of the road.
- 7 (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than
8 twenty dollars (\$20) nor more than fifty dollars (\$50).
- 9 (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not
10 less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- 11 (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-
12 five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned
13 not less than thirty (30) days nor more than twelve (12) months, or both.
- 14 (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-
15 five dollars (\$35) nor more than one hundred dollars (\$100).
- 16 (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a
17 Class B misdemeanor.
- 18 (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than
19 thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- 20 (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of
21 this section shall, in the case of a public highway, be paid into the county road fund,
22 and, in the case of a privately owned road or bridge, be paid to the owner. These
23 fines shall not bar an action for damages for breach of contract.
- 24 (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not
25 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
26 offense.
- 27 (14) Any person who violates any provision of KRS 189.575 shall be fined not less than

- 1 twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- 2 (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than
3 twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- 4 (16) Any person who violates restrictions or regulations established by the secretary of
5 transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense,
6 be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not
7 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or
8 imprisoned for thirty (30) days, or both.
- 9 (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty
10 of a Class B misdemeanor.
- 11 (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in
12 case of violation by any person in whose name the vehicle used in the
13 transportation of inflammable liquids or explosives is licensed, the person
14 shall be fined not less than one hundred dollars (\$100) nor more than five
15 hundred dollars (\$500). Each violation shall constitute a separate offense.
- 16 (18) Any person who abandons a vehicle upon the right-of-way of a state highway for
17 three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor
18 more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days
19 nor more than thirty (30) days.
- 20 (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor,
21 unless the offense is being committed by a defendant fleeing the commission of a
22 felony offense which the defendant was also charged with violating and was
23 subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- 24 (20) Any law enforcement agency which fails or refuses to forward the reports required
25 by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- 26 (21) A person who operates a bicycle in violation of the administrative regulations
27 promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10)

- 1 nor more than one hundred dollars (\$100).
- 2 (22) Any person who violates KRS 189.860 shall be fined not more than five hundred
3 dollars (\$500) or imprisoned for not more than six (6) months, or both.
- 4 (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five
5 dollars (\$25) nor more than three hundred dollars (\$300).
- 6 (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty
7 dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this
8 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
9 court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765,
10 or any other additional fees or costs.
- 11 (25) Any person who violates the provisions of KRS 189.125(3)(b) shall ~~not be issued a~~
12 ~~uniform citation, but shall instead receive a courtesy warning up until July 1, 2009.~~
13 ~~For a violation on or after July 1, 2009, the person shall~~ be fined thirty dollars
14 (\$30). This fine shall be subject to prepayment. A fine imposed under this
15 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
16 court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or
17 any other additional fees or costs. A person who has not been previously charged
18 with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting
19 the requirements of KRS 189.125. Upon presentation of sufficient proof of the
20 acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- 21 (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an
22 amount not to exceed twenty-five dollars (\$25). This fine shall be subject to
23 prepayment. A fine imposed under this subsection shall not be subject to court costs
24 pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee
25 imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- 26 (27) Fines levied pursuant to this chapter shall be assessed in the manner required by
27 KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall

1 be governed by KRS 534.020 and 534.060.

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

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

9 (b) Attendance at a driver improvement clinic established pursuant to KRS
10 186.574. If the person completes the terms of this diversionary program
11 satisfactorily the violation shall be dismissed.

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

21 (30) (a) Any person who violates KRS 189.292 or 189.294 shall be fined ***one hundred***
22 ***dollars (\$100). The fine shall be subject to prepayment, and the***
23 ***Transportation Cabinet shall not assess points against the driving record of***
24 ***any person convicted***~~[twenty five dollars (\$25) for the first offense and fifty~~
25 ~~dollars (\$50) for each subsequent offense].~~

26 (b) ***Fines collected under this subsection shall be paid into the State Treasury***
27 ***and allocated as follows:***

- 1 **1. Thirty-five percent (35%) shall be transferred into the traumatic brain**
 2 **injury trust fund established in KRS 211.476;**
 3 **2. Thirty-five percent (35%) shall be transferred into the Kentucky**
 4 **trauma care system fund established in KRS 211.496; and**
 5 **3. Thirty percent (30%) shall be transferred into the veterans' program**
 6 **trust fund established in KRS 40.460.**

7 (31) Any person who violates KRS 189.281(5) or (7)(b) shall be subject to a fine of two
 8 hundred fifty dollars (\$250). This fine shall be subject to prepayment. A fine
 9 imposed under this subsection shall not be subject to court costs pursuant to KRS
 10 24A.175, additional costs pursuant to KRS 24A.176, the fee imposed pursuant to
 11 KRS 24A.1765, or any other additional fees or costs.

12 (32) Any person who violates subsection (3) or (4) of KRS 189.290 and causes physical
 13 injury to a person shall be fined five hundred dollars (\$500).

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

15 (1) Subject to the requirements of subsection (2) of this section, if a violation of KRS
 16 189.2326, 189.290 to 189.575, or 189.910 to 189.960 occurred in a highway work
 17 zone, the fine shall be:

18 (a) 1. Five hundred dollars (\$500) if no person is physically injured or dies as
 19 a result of the violation. Notwithstanding the provisions of KRS
 20 189.999, the fine under this paragraph is prepayable; and

21 2. A driver may attend a state traffic school or a county attorney-operated
 22 traffic safety program established pursuant to KRS 186.574 for a
 23 violation of KRS 189.2326; and

24 (b) Not less than five hundred dollars (\$500) nor more than ten thousand dollars
 25 (\$10,000) if the violation results in physical injury to or death of any person.

26 (2) (a) In order for an increased fine to be imposed under this section, the highway
 27 work zone must have:

1 1. Signs displayed informing drivers of the existence of a highway work
2 zone and that fines are increased in it; and

3 2. At least one (1) bona fide worker~~[-is]~~ present in the highway work zone.

4 (b) If a violation of any of the offenses identified in subsection (1) of this section
5 can be classified as a misdemeanor, those penalties shall apply in addition to
6 the penalties in subsection (1) of this section.

7 (3) All fines collected for violations in a highway work zone under this section shall be
8 deposited into a separate trust and agency account within the Transportation
9 Cabinet known as the highway work zone safety fund. The highway work zone
10 safety fund shall be used exclusively by the Transportation Cabinet to hire or pay
11 for enhanced law enforcement of traffic laws within highway work zones.

12 **(4) Notwithstanding subsection (1) of this section, the fine for a violation of Section 1**
13 **or 2 of this Act shall be imposed in accordance with subsection (30) of Section 3**
14 **of this Act.**

15 ➔Section 5. Between the effective date of this Act and October 31, 2026, a peace
16 officer shall issue a courtesy warning and not issue a uniform citation.

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