

1 AN ACT relating to driving under the influence and making an appropriation
2 therefor.

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

4 ➔Section 1. KRS 189A.005 is amended to read as follows:

5 As used in this chapter, unless the context requires otherwise:

6 (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood
7 or grams of alcohol per 210 liters of breath;

8 (2) **"Cabinet" means the Transportation Cabinet;**

9 (3) "Ignition interlock device" **or "device"** means a device, certified by the
10 Transportation Cabinet for use in this Commonwealth under **Section 18 of this**
11 **Act**~~[KRS 189A.500(1)]~~, that:

12 (a) Connects a motor vehicle ignition system or motorcycle ignition system to a
13 breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle
14 ignition from starting, and from continuing to operate, if a driver's breath
15 alcohol concentration exceeds 0.02, as measured by the device; **and**

16 (b) **Has a fully functional camera that is equipped to record the date, time, and**
17 **photo of all persons providing breath samples to the device;**

18 (4)~~(3)~~ "Ignition interlock **certificate**~~[certification]~~ of installation" means a certificate
19 providing that the installed ignition interlock device **has been installed and** is
20 certified for use in the Commonwealth under **Section 18 of this Act**~~[KRS~~
21 ~~189A.500(1)]~~;

22 (5)~~(4)~~ "Ignition interlock device provider" **or "provider"** means any person or
23 company **certified by the Transportation Cabinet to engage**~~[engaged]~~ in the
24 business of manufacturing, selling, leasing, servicing, or monitoring ignition
25 interlock devices within the Commonwealth;

26 (6)~~(5)~~ "Ignition interlock license" means a motor vehicle or motorcycle operator's
27 license issued or granted by the laws of the Commonwealth of Kentucky that,

1 except for those with an employer exemption under Section 16 of this Act~~[with~~
2 ~~limited exceptions]~~, permits a person to drive only motor vehicles or motorcycles
3 equipped with a functioning ignition interlock device;

4 ~~(7)~~~~(6)~~ "License" means any driver's or operator's license or any other license or
5 permit to operate a motor vehicle issued under or granted by the laws of this state
6 including:

- 7 (a) Any temporary license or instruction permit;
- 8 (b) The privilege of any person to obtain a valid license or instruction permit, or
9 to drive a motor vehicle whether or not the person holds a valid license; and
- 10 (c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

11 ~~(8)~~~~(7)~~ "Limited access highway" has the same meaning as "limited access facility"
12 does in KRS 177.220;

13 ~~(9)~~~~(8)~~ "Refusal" means declining to submit to any test or tests pursuant to KRS
14 189A.103. Declining may be either by word or by the act of refusal. If the breath
15 testing instrument for any reason shows an insufficient breath sample and the
16 alcohol concentration cannot be measured by the breath testing instrument, the law
17 enforcement officer shall then request the defendant to take a blood or urine test in
18 lieu of the breath test. If the defendant then declines either by word or by the act of
19 refusal, he shall then be deemed to have refused if the refusal occurs at the site at
20 which any alcohol concentration or substance test is to be administered; **and**

21 ~~(10)~~~~(9)~~ When age is a factor, it shall mean age at the time of the commission of the
22 offense~~;~~ ~~and~~

23 ~~(10) Unless otherwise provided, license suspensions under this chapter shall be imposed~~
24 ~~by the court. The court shall impose the applicable period of license suspension~~
25 ~~enumerated by this chapter and shall include in its order or judgment the length and~~
26 ~~terms of any suspension imposed. The license suspension shall be deemed effective~~
27 ~~on the date of entry of the court's order or judgment. The role of the Transportation~~

1 ~~Cabinet shall be limited to administering the suspension period under the terms and~~
2 ~~for the duration enumerated by the court in its order or judgment].~~

3 ➔Section 2. 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 nonalcoholic~~other~~ substance or
12 combination of 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 nonalcoholic~~other~~
18 substance which 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)~~;~~¹
- 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**
 6 **a controlled substance was obtained more than two (2) hours after cessation**
 7 **of operation or physical control of a motor vehicle, the results of the test or**
 8 **tests shall be inadmissible as evidence in a prosecution under subsection**
 9 **(1)(d) of this section. The results of the test or tests, however, may be**
 10 **admissible in a 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 motor
 13 vehicle while under the influence of alcohol, the alcohol concentration in the
 14 defendant's blood as determined at the time of making analysis of his blood or
 15 breath shall give rise to the following presumptions:

16 (a) If there was an alcohol concentration of less than 0.04~~[0.05]~~ 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~~[0.05]~~ or greater but less than
 20 0.08 based upon the definition of alcohol concentration in KRS 189A.005,
 21 that fact shall not constitute a presumption that the defendant either was or
 22 was not under the influence of alcohol, but that fact may be considered,
 23 together with other competent evidence, in determining the guilt or innocence
 24 of the 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 prosecution

1 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 any
5 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 six
5 (6) months. If any of the aggravating circumstances listed in subsection (11)
6 of this section are present, the mandatory minimum term of imprisonment
7 shall be fourteen (14) days, which term shall not be suspended, probated,
8 conditionally discharged, or subject to any other form of early release;

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

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

25 (e) For purposes of this subsection, prior offenses shall include all convictions in
26 this state, and any other state or jurisdiction, for operating or being in control
27 of a motor vehicle while under the influence of alcohol or other substances

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

6 (6) Any person who violates the provisions of subsection (1)(f) of this section shall
7 ~~have his driving privilege or operator's license suspended by the court for a period~~
8 ~~of no less than thirty (30) days but no longer than six (6) months, and the person~~
9 ~~shall~~ be fined no less than one hundred dollars (\$100) and no more than five
10 hundred dollars (\$500), or sentenced to twenty (20) hours of community service in
11 lieu of a fine. A person subject to the penalties of this subsection shall not be
12 subject to the penalties established in subsection (5) of this section or any other
13 penalty established pursuant to KRS Chapter 189A, except those established in
14 KRS 189A.040(1) ***and Section 6 of this Act.***

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

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

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

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

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

26 (b) Alprazolam;

27 (c) Amphetamine;

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

14 ➔Section 3. KRS 189A.040 is amended to read as follows:

- 15 (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court
- 16 shall sentence the person to attend an alcohol or substance abuse education or
- 17 treatment program subject to the following terms and conditions for a first offender
- 18 or a person convicted under KRS 189A.010(1)(f):
 - 19 (a) The treatment or education shall be for a period of ninety (90) days and the
 - 20 program shall provide an assessment of the defendant's alcohol or other
 - 21 substance abuse problems, which shall be performed at the start of the
 - 22 program;
 - 23 (b) Each defendant shall pay the cost of the education or treatment program up to
 - 24 his ability to pay but no more than the actual cost of the treatment;
 - 25 (c) Upon written report to the court by the administrator of the program that the
 - 26 defendant has completed the program recommended by the administrator
 - 27 based upon the assessment of the defendant, the defendant shall be released

1 prior to the expiration of the ninety (90) day period; and

2 (d) Failure to complete the education or treatment program or to pay the amount
3 specified by the court for education or treatment shall constitute contempt, and
4 the court shall, in addition to any other remedy for contempt, reinstitute all
5 penalties which were previously imposed but suspended or delayed pending
6 completion of the education or treatment program.

7 (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall
8 sentence the person to an alcohol or substance abuse treatment program subject to
9 the following terms and conditions for a second offender:

10 (a) The sentence shall be for a period of one (1) year and the program shall
11 provide an assessment of the defendant's alcohol or other substance abuse
12 problems, which shall be performed at the start of the program;

13 (b) Each defendant shall pay the cost of the treatment program up to his ability to
14 pay but no more than the actual cost of the treatment;

15 (c) Upon written report to the court by the administrator of the program that the
16 defendant has completed the program recommended by the administrator
17 based upon the assessment of the defendant, the defendant may be released
18 prior to the expiration of the one (1) year period; and

19 (d) Failure to complete the treatment program or to pay the amount specified by
20 the court for treatment shall constitute contempt of court and the court shall,
21 in addition to any other remedy for contempt, reinstitute all penalties which
22 were previously imposed but suspended or delayed pending the completion of
23 the treatment program.

24 (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court
25 shall sentence the person to an alcohol or substance abuse treatment program
26 subject to the following terms and conditions for a third or subsequent offender:

27 (a) The sentence shall be for a period of one (1) year and the program shall

1 provide an assessment of the defendant's alcohol or other substance abuse
 2 problems, which shall be performed at the start of the program. The program
 3 may be an inpatient or residential-type program;

4 (b) Each defendant shall pay the cost of the treatment program up to his ability to
 5 pay but no more than the actual cost of the program;

6 (c) A defendant, upon written recommendation to the court by the administrator
 7 of the program, may be released from the inpatient or residential program
 8 prior to the expiration of one (1) year but shall be retained in the program on
 9 an outpatient basis for the remainder of the year period; and

10 (d) Failure to complete the treatment program or to pay the amount specified by
 11 the court for treatment shall constitute contempt of court, and the court shall,
 12 in addition to any other remedy for contempt, reinstitute all penalties which
 13 were previously imposed but suspended or delayed pending completion of the
 14 treatment program.

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

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

23 ~~(6)~~~~(5)}~~ For the purposes of this section, "treatment" means service in an alcohol or
 24 substance abuse education or treatment program or facility licensed, regulated, and
 25 monitored by the Cabinet for Health and Family Services for services as required
 26 under this section.

27 ~~(7)~~~~(6)}~~ The Cabinet for Health and Family Services shall promulgate administrative

1 regulations for the licensure of education and treatment facilities and programs for
 2 offenders receiving education or treatment under this section. The criteria developed
 3 by the Cabinet for Health and Family Services shall include:

- 4 (a) Manner of assessment;
- 5 (b) Appropriate education and treatment plans; and
- 6 (c) Referrals to other treatment providers.

7 ~~(8)~~~~(7)~~ The participating facilities and programs shall be required to abide by these
 8 standards and shall report completion to the Transportation Cabinet. Upon request,
 9 the facility or program shall report to the courts regarding the progress of offenders
 10 being treated pursuant to this section.

11 ~~(9)~~~~(8)~~ Administrative decisions regarding the licensure of education and treatment
 12 facilities and programs may be appealed, and upon appeal an administrative hearing
 13 shall be conducted in accordance with KRS Chapter 13B.

14 ➔Section 4. KRS 189A.045 is amended to read as follows:

15 (1) (a) Except as provided in paragraph (b) of this subsection, when a court requires
 16 a defendant to enroll in an alcohol or substance abuse~~drug~~ education or
 17 treatment program pursuant to this chapter, it shall require the defendant to
 18 accomplish the enrollment within ten (10) days of the entry of judgment of
 19 conviction.

20 (b) A defendant may choose to enroll in an alcohol or substance abuse
 21 education or treatment program prior to conviction. If a defendant chooses
 22 to enroll prior to conviction, the alcohol or substance abuse education or
 23 treatment completed prior to conviction shall count towards the period of
 24 alcohol or substance abuse education or treatment required pursuant to
 25 Section 3 of this Act.

26 (2) When a defendant enrolls in the program~~ordered by the court~~, the administrator of
 27 the program or his authorized representative shall transmit to the court a certificate

1 of enrollment within five (5) working days of the enrollment.

2 (3) If the court does not receive a certificate of enrollment from the administrator of a
3 program to which the defendant has been assigned within twenty (20) days of the
4 entry of judgment of conviction, the court shall hold a hearing requiring the
5 defendant to show cause why he did not enroll.

6 (4) If a defendant enrolled in ~~an~~[a drug or] alcohol **or substance abuse** education or
7 treatment program drops out of the program or does not maintain satisfactory
8 attendance at the program, the administrator of the program or his authorized
9 representative shall transmit to the court a notice describing the defendant's failure
10 to attend.

11 (5) Upon receipt of a notice of failure to attend a required alcohol or **substance abuse**
12 ~~[drug]~~ education or treatment program, the court shall hold a hearing requiring the
13 defendant to show cause why he should not be held in contempt of court and be
14 subject to the reinstatement of any penalties which may have been withheld pending
15 completion of treatment.

16 (6) When a defendant completes the required alcohol or **substance abuse**~~[drug]~~
17 education or treatment program, the administrator of the program shall notify the
18 court and the Transportation Cabinet of the defendant's completion of the program.

19 ➔Section 5. KRS 189A.050 is amended to read as follows:

20 (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall
21 be sentenced to pay a service fee of **four hundred twenty-five dollars (\$425)**~~three~~
22 ~~hundred seventy-five dollars (\$375)]~~, which shall be in addition to all other
23 penalties authorized by law.

24 (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS
25 534.020 and KRS 534.060.

26 (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid
27 into the general fund, **the second fifty dollars (\$50) of each service fee imposed by**

1 *this section shall be paid to the ignition interlock administration fund established*
2 *in Section 20 of this Act,* and the remainder of the revenue collected from the

3 service fee imposed by this section shall be utilized as follows:

4 (a) Twelve percent (12%)~~[of the amount collected]~~ shall be transferred to the
5 Department of Kentucky State Police forensic laboratory for the acquisition,
6 maintenance, testing, and calibration of alcohol concentration testing
7 instruments and the training of laboratory personnel to perform these tasks;

8 (b) Twenty percent (20%)~~[of the service fee collected pursuant to this section]~~
9 shall be allocated to the Department of Public Advocacy;

10 (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for
11 training of prosecutors for the prosecution of persons charged with violations
12 of this chapter and for obtaining expert witnesses in cases involving the
13 prosecution of persons charged with violations of this chapter or any other
14 offense in which driving under the influence is a factor in the commission of
15 the offense charged;

16 (d) Sixteen percent (16%)~~[of the amount collected]~~ shall be transferred as
17 follows:

18 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust
19 fund established under KRS 211.476; and

20 2. Fifty percent (50%) shall be credited to the Cabinet for Health and
21 Family Services, Department for Behavioral Health, Developmental and
22 Intellectual Disabilities, for the purposes of providing direct services to
23 individuals with brain injuries that may include long-term supportive
24 services and training and consultation to professionals working with
25 individuals with brain injuries. As funding becomes available under this
26 subparagraph, the cabinet may promulgate administrative regulations
27 pursuant to KRS Chapter 13A to implement the services permitted by

1 this subparagraph;

2 (e) Any amount specified by a specific statute shall be transferred as provided in
3 that statute;

4 (f) Forty-six percent (46%)~~[of the amount collected]~~ shall be transferred to be
5 utilized to fund enforcement of this chapter and for the support of jails,
6 recordkeeping, treatment, and educational programs authorized by this chapter
7 and by the Department of Public Advocacy; and

8 (g) The remainder~~[of the amount collected]~~ shall be transferred to the general
9 fund.

10 (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be
11 placed in trust and agency accounts that shall not lapse.

12 ➔Section 6. KRS 189A.070 IS REPEALED AND REENACTED TO READ AS
13 FOLLOWS:

14 **(1) (a) 1. Unless the person is under eighteen (18) years of age, in addition to**
15 **the penalties specified in Section 2 of this Act, the Transportation**
16 **Cabinet shall suspend a person's license to operate a motor vehicle or**
17 **motorcycle upon conviction of subsection (1) of Section 2 of this Act.**

18 **2. Upon conviction of subsection (1)(a), (b), (c), (d), or (e) of Section 2 of**
19 **this Act, the Transportation Cabinet shall suspend a person's license**
20 **to operate a motor vehicle or motorcycle as follows:**

21 **a. For the first offense within a ten (10) year period:**

22 **i. For a person who is issued an ignition interlock license**
23 **under Section 16 of this Act and who meets the one**
24 **hundred twenty (120) consecutive day requirement within**
25 **the first six (6) months of the issuance of the ignition**
26 **interlock license, six (6) months;**

27 **ii. For a person who is issued an ignition interlock license**

1 under Section 16 of this Act but does not meet the one
2 hundred twenty (120) consecutive day requirement within
3 the first six (6) months of the issuance of the ignition
4 interlock license, until the person meets the one hundred
5 twenty (120) consecutive day requirement or nine (9)
6 months, whichever is shorter; or

7 iii. For all others, nine (9) months;

8 b. For the second offense within a ten (10) year period:

9 i. For a person who is issued an ignition interlock license
10 under Section 16 of this Act and who meets the one
11 hundred twenty (120) consecutive day requirement within
12 the first twelve (12) months of the issuance of the ignition
13 interlock license, twelve (12) months;

14 ii. For a person who is issued an ignition interlock license
15 under Section 16 of this Act but does not meet the one
16 hundred twenty (120) consecutive day requirement within
17 the first twelve (12) months of the issuance of the ignition
18 interlock license, until the person meets the one hundred
19 twenty (120) consecutive day requirement or eighteen (18)
20 months, whichever is shorter; or

21 iii. For all others, eighteen (18) months;

22 c. For a third offense within a ten (10) year period:

23 i. For a person who is issued an ignition interlock license
24 under Section 16 of this Act and who meets the one
25 hundred twenty (120) consecutive day requirement within
26 the first eighteen (18) months of the issuance of the
27 ignition interlock license, eighteen (18) months;

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

- 1 subparagraph;
- 2 ii. Second offense of Section 2 of this Act, the person's license
- 3 shall be suspended as provided in subdivision b. of this
- 4 subparagraph;
- 5 iii. Third offense of Section 2 of this Act, the person's license
- 6 shall be suspended as provided in subdivision c. of this
- 7 subparagraph; and
- 8 iv. Fourth or subsequent offense of Section 2 of this Act, the
- 9 person's license shall be suspended as provided in
- 10 subdivision d. of this subparagraph.
- 11 3. Upon conviction of subsection (1)(f) of Section 2 of this Act, the
- 12 Transportation Cabinet shall suspend a person's license to operate a
- 13 motor vehicle or motorcycle as follows:
- 14 a. For a person who is issued an ignition interlock license under
- 15 Section 16 of this Act and who meets the one hundred twenty
- 16 (120) consecutive day requirement within the first four (4)
- 17 months of the issuance of the ignition interlock license, four (4)
- 18 months;
- 19 b. For a person who is issued an ignition interlock license under
- 20 Section 16 of this Act but does not meet the one hundred twenty
- 21 (120) consecutive day requirement within the first four (4)
- 22 months of the issuance of the ignition interlock license, until the
- 23 person meets the one hundred twenty (120) consecutive day
- 24 requirement or six (6) months, whichever is shorter; or
- 25 c. For all others, six (6) months.
- 26 4. For purposes of this paragraph, "one hundred twenty (120)
- 27 consecutive day requirement" means the requirement established in

1 subsection (4)(b)2. of Section 16 of this Act.

2 **(b) For a person under the age of eighteen (18), in addition to the penalties**
3 **specified in Section 2 of this Act, the Transportation Cabinet shall suspend**
4 **the person's license to operate a motor vehicle or motorcycle upon**
5 **conviction of subsection (1) of Section 2 of this Act. The person shall have**
6 **his or her license suspended until he or she reaches the age of eighteen (18)**
7 **or as provided in paragraph (a) of this subsection, whichever penalty will**
8 **result in the longer period of suspension.**

9 **(2) In addition to the period of license suspension set forth in subsection (1) of this**
10 **section, no person shall be eligible for reinstatement of his or her full privilege to**
11 **operate a motor vehicle or motorcycle until he or she has completed the alcohol**
12 **or substance abuse education or treatment program ordered pursuant to Section**
13 **3 of this Act.**

14 **(3) Upon conviction of subsection (1) of Section 2 of this Act:**

15 **(a) A person shall surrender his or her license to operate a motor vehicle or**
16 **motorcycle to the court. Should the person fail to surrender his or her**
17 **license to the court, the court shall issue an order directing the sheriff or**
18 **any other peace officer to seize the license forthwith and deliver it to the**
19 **court. The court shall then forward the license to the Transportation**
20 **Cabinet. This paragraph shall not apply to a person who has previously**
21 **surrendered his or her license pursuant to Section 12 of this Act; and**

22 **(b) The court shall immediately transmit the conviction records and other**
23 **appropriate information to the Transportation Cabinet. A court shall not**
24 **waive or stay this procedure.**

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

1 ➔Section 7. KRS 189A.085 is amended to read as follows:

- 2 (1) Unless **a person has been issued an ignition interlock license under Section 16 of**
3 **this Act or a hardship license under Section 22 of this Act,**~~[at the final sentencing~~
4 ~~hearing of]~~ a person who has been convicted of **an** ~~[a second or subsequent]~~ offense
5 under KRS 189A.010~~, the person provides proof that the requirements of KRS~~
6 ~~189A.420 have been met for issuance of an ignition interlock license, the person]~~
7 shall have the license plate or plates on all of the motor vehicles **or motorcycles**
8 owned by him or her, either solely or jointly, impounded by the court of competent
9 jurisdiction in accordance with the following procedures:
- 10 (a) At the final sentencing hearing, **or within forty-five (45) days thereafter,** the
11 person shall physically surrender any and all license plate or plates currently in
12 force on any motor vehicle **or motorcycle** owned either individually or jointly
13 by him or her to the court. The order of the court suspending the license plate
14 or plates shall not exceed the time for the suspension of the~~[motor vehicle]~~
15 operator's license~~[of the second or subsequent offender]~~ as specified in KRS
16 189A.070.
- 17 (b) The clerk of the court shall retain any surrendered plate or plates and transmit
18 all surrendered plate or plates to the Transportation Cabinet in the manner set
19 forth by the Transportation Cabinet in administrative regulations promulgated
20 by the Transportation Cabinet.
- 21 (2) Upon application, the court may grant hardship exceptions to family members or
22 other individuals affected by the surrender of any license plate or plates of any
23 **motor** vehicle **or motorcycle** owned by the~~[second or subsequent]~~ offender.
24 Hardship exceptions may be granted by the court to the~~[second or subsequent]~~
25 offender's family members or other affected individuals only if the family members
26 or other affected individuals prove to the court's satisfaction that their inability to
27 utilize the surrendered **motor** vehicles **or motorcycles** would pose an undue

1 hardship upon the family members or ~~affected~~ other ***affected*** individuals. Upon
 2 the court's granting of hardship exceptions, the clerk or the Transportation Cabinet
 3 as appropriate, shall return to the family members or other affected individuals the
 4 license plate or plates of the ***motor*** vehicles ***or motorcycles*** of the ~~second or~~
 5 ~~subsequent~~ offender for their utilization. The ~~second or subsequent~~ offender shall
 6 not be permitted to operate a ***motor*** vehicle ***or motorcycle*** for which the license
 7 plate has been suspended or for which a hardship exception has been granted ***→***
 8 ***unless the offender has been issued an ignition interlock license under Section 16***
 9 ***of this Act or a hardship license under Section 22 of this Act*** ~~under any~~
 10 ~~circumstances~~.

11 (3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be
 12 transferred to a joint owner of the vehicle who was not the violator.

13 (4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

14 ➔Section 8. KRS 189A.090 is amended to read as follows:

15 (1) No person shall operate or be in physical control of a motor vehicle ***or motorcycle***
 16 while his or her license is ~~revoked or~~ suspended under this chapter, ~~or upon the~~
 17 ~~conclusion of a license revocation period pursuant to KRS 189A.340~~ unless the
 18 person has ***a*** ~~his or her~~ valid:

19 ***(a)*** Ignition interlock license in the person's possession and:

20 ***1.*** The motor vehicle or motorcycle is equipped with a functioning ignition
 21 interlock device ~~as required by KRS 189A.420.~~; ***or***

22 ***2.*** ***The person is operating or in physical control of an employer's motor***
 23 ***vehicle or motorcycle in accordance with subsection (6) of Section 16***
 24 ***of this Act; or***

25 ***(b)*** ***Hardship license in the person's possession.***

26 (2) In addition to ***the period of license suspension imposed by Section 6 of this***
 27 ***Act*** ~~any other penalty imposed by the court~~, any person who violates subsection (1)

1 of this section shall:

- 2 (a) For a first offense within a ten (10) year period, be guilty of a Class B
 3 misdemeanor and have his or her license suspended~~revoked~~ by the
 4 Transportation Cabinet~~court~~ for six (6) months, unless at the time of the
 5 offense the person was also operating or in physical control of a motor vehicle
 6 in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event the
 7 person~~he~~ shall be guilty of a Class A misdemeanor and have his or her
 8 license suspended~~revoked~~ by the Transportation Cabinet~~court~~ for a
 9 period of one (1) year;
- 10 (b) For a second offense within a ten (10) year period, be guilty of a Class A
 11 misdemeanor and have his or her license suspended~~revoked~~ by the
 12 Transportation Cabinet~~court~~ for one (1) year, unless at the time of the
 13 offense the person was also operating or in physical control of a motor vehicle
 14 in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event the
 15 person~~he~~ shall be guilty of a Class D felony and have his or her license
 16 suspended~~revoked~~ by the Transportation Cabinet~~court~~ for a period of two
 17 (2) years; and
- 18 (c) For a third or subsequent offense within a ten (10) year period, be guilty of a
 19 Class D felony and have his or her license suspended~~revoked~~ by the
 20 Transportation Cabinet~~court~~ for two (2) years, unless at the time of the
 21 offense the person was also operating or in physical control of a motor vehicle
 22 in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event the
 23 person~~he~~ shall be guilty of a Class C~~D~~ felony and have his or her license
 24 suspended~~revoked~~ by the Transportation Cabinet~~court~~ for a period of five
 25 (5) years; ~~and~~
- 26 ~~(3)(d)~~ Any person who violates subsection (1) of this section may~~At the sole~~
 27 ~~discretion of the court, in the interest of public safety and upon a written finding in~~

1 ~~the record for good cause shown, the court may order that, following any period of~~
 2 ~~incarceration required for the conviction of an offense under paragraph (a), (b), or~~
 3 ~~(c) of this subsection, the eligible person is authorized to} apply for[and the cabinet~~
 4 ~~shall issue to the person} an ignition interlock license for the remainder of the~~
 5 original period of suspension **under Section 6 of this Act**~~[or revocation]~~ and for the
 6 entire period of the new **suspension**~~[revocation]~~ if the person is and remains
 7 otherwise eligible for such license **pursuant to Section 16 of this Act.**

8 ~~(4)~~~~(3)}~~ The ten (10) year period under this section shall be measured in the same
 9 manner as in KRS 189A.070.

10 ~~[(4) Upon a finding of a violation of any of the requirements of an ignition interlock~~
 11 ~~license, the court shall dissolve such an order and the person shall receive no credit~~
 12 ~~toward the remaining period of revocation required under subsection (2)(b) or (c) of~~
 13 ~~this section.]~~

14 ➔Section 9. KRS 189A.100 is amended to read as follows:

15 (1) Law enforcement agencies may administer preliminary breath tests using devices or
 16 equipment which will ensure an accurate determination of blood alcohol content.
 17 Such tests may be administered in the field to a person suspected of violation of
 18 KRS 189A.010 before the person is arrested. This test may be administered in
 19 addition to any other blood alcohol level test authorized by law. A person's refusal
 20 to take a preliminary breath test shall not be used against him in a court of law or in
 21 any administrative proceeding.

22 (2) (a) Law enforcement agencies may record on film or videotape or by other visual
 23 and audible means:

24 1. The pursuit of a violator or suspected violator;~~;~~

25 2. The traffic stop;~~;~~ or

26 3. a. Field sobriety tests administered at the scene~~[of an arrest for~~
 27 ~~violation of KRS 189A.010]~~ or such tests at a police station, jail,

1 or other suitable facility; or

2 **b. The refusal of a violator or suspected violator to submit to tests**
 3 **under KRS 189A.103;**

4 **for a suspected violation of KRS 189A.010.**

5 **(b) Recordings made under paragraph (a) of this subsection shall be** subject to
 6 the following conditions:

7 ~~1. (a)~~ The testing is recorded in its entirety (except for blood alcohol
 8 analysis testing); ~~and~~

9 ~~2. (b)~~ The entire recording of the field sobriety tests or refusal and the
 10 entire recording of ~~such portions of~~ the pursuit and traffic stop ~~as~~
 11 ~~were recorded~~ is shown in court unless the defendant waives the
 12 showing of any portions not offered by the prosecution; ~~and~~

13 ~~3. (c)~~ The entire recording is available to be shown by the defense at trial
 14 if the defendant so desires regardless of whether it was introduced by the
 15 Commonwealth; ~~and~~

16 ~~4. (d)~~ The defendant or his counsel is afforded an opportunity to view the
 17 entire recording a reasonable time before the trial in order to prepare an
 18 adequate defense; ~~and~~

19 ~~5. (e)~~ Recordings shall be used for official purposes only, which shall
 20 include:

21 ~~a. [1.]~~ Viewing in court;

22 ~~b. [2.]~~ Viewing by the prosecution and defense in preparation for a trial;
 23 and

24 ~~c. [3.]~~ Viewing for purposes of administrative reviews and official
 25 administrative proceedings. Recordings shall otherwise be
 26 considered as confidential records; ~~and~~

27 ~~6. (f)~~ The videotape or film taken in accordance with this section shall,

1 upon order of the sentencing~~[District]~~ court, be destroyed after the later
2 of the following:

3 a.~~[1.]~~ Fourteen (14) months, if there is no appeal of any criminal or
4 traffic case filed as a result of the videotape or film, or if the
5 videotape or film does not record the actual happening of an
6 accident involving a motor vehicle;

7 b.~~[2.]~~ Fourteen (14) months after a decision has been made not to
8 prosecute any case upon which an arrest has been made or a
9 citation issued as a result of the videotape or film, if the videotape
10 does not record the actual happening of an accident involving a
11 motor vehicle;

12 c.~~[3.]~~ Twenty-six (26) months, if there is no appeal of any criminal or
13 traffic case filed as a result of the videotape or film, if the
14 videotape or film records the actual happening of an accident
15 involving a motor vehicle;

16 d.~~[4.]~~ After all appeals have been exhausted arising from any criminal or
17 traffic case filed as a result of the videotape;

18 e.~~[5.]~~ At the conclusion of any civil case arising from events depicted on
19 the videotape or film; or

20 f.~~[6.]~~ At the conclusion of the exhaustion of all appeals arising from any
21 law enforcement agency administrative proceedings arising from
22 events depicted on the videotape or film; and

23 z.~~[(g)]~~ Public officials or employees utilizing or showing recordings other
24 than as permitted in this chapter or permitting others to do so shall be
25 guilty of official misconduct in the first degree.

26 (3) When a peace officer makes a videotape or film recording of any transaction
27 covered by subsection (2) of this section and a citation is issued or an arrest is made,

1 the peace officer shall note on the uniform citation that a videotape has been made
2 of the transaction.

3 →Section 10. KRS 189A.105 is amended to read as follows:

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

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

8 1. That, if the person refuses to submit to such tests:~~;~~

9 a. The fact of this refusal may be used against him or her in court as
10 evidence of violating KRS 189A.010 and will result in
11 suspension~~revocation~~ of his or her driver's license by the court
12 at the time of arraignment~~;~~ and if the person refuses to submit to
13 the tests} and

14 b. Is subsequently convicted of violating KRS 189A.010(1):

15 i. ~~{then}~~ He or she will be subject to a mandatory minimum jail
16 sentence which is twice as long as the mandatory minimum
17 jail sentence imposed if he or she submits to the tests:~~;~~ and
18 ~~{that if the person refuses to submit to the tests}~~

19 ii. His or her license will be suspended by the Transportation
20 Cabinet~~court at the time of arraignment, and he or she will~~
21 ~~be unable to obtain an ignition interlock license during the~~
22 ~~suspension period~~~~;~~ ~~and~~

23 2. That, if a test is taken:~~;~~

24 a. The results of the test may be used against the person~~him~~ in
25 court as evidence of violating KRS 189A.010(1):~~;~~ and

26 b. The person has the right to have a test or tests of his or her blood
27 performed by a person of his or her choosing described in KRS

1 *189A.103 within a reasonable time of his or her arrest at the*
 2 *expense of the person arrested; and*

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

8 ~~3. — That if the person first submits to the requested alcohol and substance~~
 9 ~~tests, the person has the right to have a test or tests of his blood~~
 10 ~~performed by a person of his choosing described in KRS 189A.103~~
 11 ~~within a reasonable time of his arrest at the expense of the person~~
 12 ~~arrested].~~

13 (b) Nothing in this subsection shall be construed to prohibit a judge of a court of
 14 competent jurisdiction from issuing a search warrant or other court order
 15 requiring a blood or urine test, or a combination thereof~~[- of a defendant~~
 16 ~~charged with a violation of KRS 189A.010, or other statutory violation arising~~
 17 ~~from the incident, when a person is killed or suffers physical injury, as defined~~
 18 ~~in KRS 500.080, as a result of the incident in which the defendant has been~~
 19 ~~charged]. [However,]If the incident involves a motor vehicle accident in~~
 20 which there was a fatality, the investigating peace officer shall seek such a
 21 search warrant for blood, breath, or urine testing unless the testing has already
 22 been done by consent. If testing done pursuant to a warrant reveals the
 23 presence of alcohol or any other substance that impaired the driving ability of
 24 a person who is charged~~[- with]~~ and convicted of *a violation of subsection (1)*
 25 *of Section 2 of this Act*~~[an offense arising from the accident]~~, the sentencing
 26 court shall require, in addition to any other sentencing provision, that the
 27 defendant make restitution to the state for the cost of the testing.

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

12 (4) Immediately following the administration of the final test requested by the officer,
 13 the person shall again be informed of his or her right to have a test or tests of his or
 14 her blood performed by a person of his or her choosing described in KRS
 15 189A.103 within a reasonable time of his or her arrest at the expense of the person
 16 arrested. He or she shall then be asked "Do you want such a test?" The officer shall
 17 make reasonable efforts to provide transportation to the tests.

18 ➔Section 11. KRS 189A.107 is amended to read as follows:

19 (1) A person who refuses to submit to an alcohol concentration or substance test
 20 requested by an officer having reasonable grounds to believe that the person
 21 violated KRS 189A.010(1) shall have his or her driver's license suspended ~~by the~~
 22 ~~court~~ during the pendency of the action as provided in Section 12 of this Act ~~under~~
 23 ~~KRS 189A.200 unless, at the time of arraignment, the person files a motion with the~~
 24 ~~court waiving the right to judicial review of the suspension, after which the court, in~~
 25 ~~its discretion, may authorize the person to apply to the cabinet for issuance of an~~
 26 ~~ignition interlock license under KRS 189A.420 for the period of the suspension. If~~
 27 ~~the person complies with the requirements of KRS 189A.420 and is otherwise~~

1 ~~eligible, the cabinet shall issue the person an ignition interlock license for the~~
2 ~~remainder of the suspension period and apply the court determined credit on a day-~~
3 ~~for day basis for any subsequent ignition interlock requirement arising from the~~
4 ~~same incident].~~

5 (2) (a) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in
6 a case in which it is alleged that he or she refused to take an alcohol
7 concentration or substance test, upon motion of the attorney for the
8 Commonwealth, the court shall conduct a hearing, without a jury, to
9 determine by clear and convincing evidence if the person actually refused the
10 testing. However, the hearing shall not be required if the court has made a
11 previous determination of the issue at a hearing held under KRS 189A.200
12 and 189A.220.

13 (b) If the court finds that the person did refuse to submit to the testing, the court
14 shall suspend the person's driver's license for the[a] period of time[~~within the~~
15 ~~time range specified that~~] the license would have been suspended upon
16 conviction as set forth in KRS 189A.070(1), except that the court[~~, in its~~
17 ~~discretion,~~] may authorize the person to apply to the Transportation Cabinet
18 for issuance of an ignition interlock license under Section 16 of this Act[~~KRS~~
19 ~~189A.420~~] for the period of the suspension[~~. If the person complies with the~~
20 ~~requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall~~
21 ~~issue the person an ignition interlock license for the remainder of the~~
22 ~~suspension period and grant the person day for day credit for any subsequent~~
23 ~~ignition interlock requirement arising from the same incident].~~

24 (c) When the court orders the suspension of a person's license pursuant to this
25 subsection, the person shall surrender the license in the same manner
26 prescribed by subsection (4) of Section 12 of this Act. In addition, notice of
27 the suspension shall be immediately transmitted to the Transportation

1 **Cabinet.**

2 ➔Section 12. KRS 189A.200 is amended to read as follows:

3 (1) The court shall at the arraignment or as soon as such relevant information becomes
4 available suspend the motor vehicle operator's license and motorcycle operator's
5 license and driving privileges of any person charged with a violation of KRS
6 189A.010(1) who:

7 (a) Has refused to take an alcohol concentration or substance test as reflected on
8 the uniform citation form;

9 (b) Has been convicted of one (1) or more prior offenses as described in KRS
10 189A.010(5)(e) or has had his **or her** operator's license~~[revoked or]~~
11 suspended on one (1) or more occasions for refusing to take an alcohol
12 concentration or substance test, in the ten (10) year period immediately
13 preceding his **or her** arrest; or

14 (c) Was involved in an accident that resulted in death or serious physical injury as
15 defined in KRS 500.080 to a person other than the defendant.

16 (2) Persons whose licenses have been suspended pursuant to this section may file a
17 motion for judicial review of the suspension, and the court shall conduct the review
18 in accordance with this chapter within thirty (30) days after the filing of the motion.
19 The court shall, at the time of the suspension, advise the defendant of his rights to
20 the review.

21 **(3) When the court orders the suspension of a license pursuant to:**

22 **(a) Subsection (1)(a) of this section**~~[If the person files a motion with the court~~
23 ~~waiving the right to judicial review of the suspension], the court[, in its~~
24 ~~discretion,]~~ may **require that the**~~[authorize the]~~ person~~[to]~~ apply to the
25 **Transportation** Cabinet for issuance of an ignition interlock license under
26 **Section 16 of this Act**~~[KRS 189A.420]~~ for the period of the suspension;

27 **(b) Subsection (1)(b) or (c) of this section, the court shall require that the**

1 person apply to the Transportation Cabinet for issuance of an ignition
 2 interlock license under Section 16 of this Act for the period of suspension;
 3 and

4 (c) Subsection (1) of this section and the person is required to apply for an
 5 ignition interlock license pursuant to paragraph (a) or (b) of this
 6 subsection, the person shall present the completed ignition interlock license
 7 application to the court. [~~If the person complies with KRS 189A.420 and is~~
 8 ~~otherwise eligible, the cabinet shall issue the person an ignition interlock~~
 9 ~~license for the remainder of the suspension period and apply the court-~~
 10 ~~determined credit on a day for day basis for any subsequent ignition interlock~~
 11 ~~requirement arising from the same incident.~~]

12 (4)[(3)] When the court orders the suspension of a license pursuant to this section, the
 13 defendant shall immediately surrender his or her[~~the~~] license to operate a motor
 14 vehicle or motorcycle to[~~the Circuit Court clerk, and~~] the court. Should the
 15 defendant fail to surrender his or her license to the court, the court shall issue an
 16 order directing[~~retain the defendant in court or remand him into the custody of~~] the
 17 sheriff or any other peace officer to seize[~~until~~] the license forthwith and deliver it
 18 to the court[~~is produced and surrendered. If the defendant has lost his operator's~~
 19 ~~license, other than due to a previous suspension or revocation, which is still in~~
 20 ~~effect, the sheriff shall take him to the office of the circuit clerk so that a new~~
 21 ~~license can be issued~~]. If the license is currently under suspension[~~or revocation~~],
 22 the provisions of this subsection shall not apply.

23 (5)[(4)] The Circuit Court Clerk shall forthwith transmit to the Transportation
 24 Cabinet;

25 (a) Any license surrendered[~~to him~~] pursuant to this section; and

26 (b) If the court ordered a person to apply for an ignition interlock device under
 27 subsection (3) of this section, notification of the order.

1 ~~(6)~~⁽⁵⁾ Licenses suspended under this section shall remain suspended until:

2 (a) The person is acquitted;

3 (b) All pending or current charges relating to a violation of Section 2 of
4 this Act have been dismissed; or

5 (c) The person is convicted and the Transportation Cabinet has
6 suspended his or her license pursuant to Section 6 of this Act;~~a~~
7 ~~judgment of conviction or acquittal is entered in the case or until the~~
8 ~~court enters an order terminating the suspension.]~~

9 but in no event for a period longer than the ~~maximum~~ license suspension
10 period applicable to the person under KRS 189A.070 or~~and~~ 189A.107.

11 ~~[Nothing in this subsection shall prevent the person from filing a motion for,~~
12 ~~the court from granting, or the Cabinet from issuing an ignition interlock~~
13 ~~license under subsection (2) of this section.]~~

14 ~~(7)~~⁽⁶⁾ Any person whose operator's license has been suspended pursuant to this
15 section shall be given credit for all pretrial suspension time against the period of
16 suspension~~revocation~~ imposed under Section 6 of this Act. ~~Licenses suspended~~
17 ~~under this section shall remain suspended until a judgment of conviction or~~
18 ~~acquittal is entered in the case or until the court enters an order terminating the~~
19 ~~suspension, but in no event for a period longer than the maximum license~~
20 ~~suspension period applicable to the person under KRS 189A.070 and 189A.107.]~~

21 ➔Section 13. KRS 189A.220 is amended to read as follows:

22 In any judicial review of a pretrial suspension imposed for refusal to take an alcohol
23 concentration or substance test under subsection (1)(a) of Section 12 of this Act, if the
24 court determines, by the preponderance of the evidence, that:

25 (1) The person was charged and arrested by a peace officer with violation of KRS
26 189A.010(1);

27 (2) The officer had reasonable grounds to believe that the person was operating or in

1 physical control of a motor vehicle in violation of KRS 189A.010(1);

2 (3) The person was advised of the implied consent law pursuant to KRS
3 189A.105~~[189A.103]~~;

4 (4) The peace officer requested the person to take the test or tests pursuant to KRS
5 189A.103; and~~[then]~~

6 (5) The person refused to take a test requested by a peace officer pursuant to KRS
7 189A.103;~~[;]~~

8 then the court shall continue the suspension of the person's operator's license or
9 privilege to operate a motor vehicle during the pendency of the proceedings, **but in no**
10 **event for a period longer than the license suspension period applicable to the person**
11 **under Sections 6 and 11 of this Act.**

12 ➔Section 14. KRS 189A.240 is amended to read as follows:

13 In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)~~(a)~~**(b)**,
14 if the court determines by a preponderance of the evidence that:

15 (1) The person was charged and arrested by a peace officer with a violation of KRS
16 189A.010(1)(a), (b), (c), (d), or (e);

17 (2) The peace officer had reasonable grounds to believe that the person was operating a
18 motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

19 (3) There is probable cause to believe that the person committed the violation of KRS
20 189A.010(1)(a), (b), (c), (d), or (e) as charged; and

21 (4) The person has been convicted of one (1) or more prior offenses as described in
22 KRS 189A.010(5)(e) or has had his **or her** motor vehicle operator's license
23 suspended~~[or revoked]~~ on one (1) or more occasions for refusing to take an alcohol
24 concentration or substance test, in the ten (10) year period immediately preceding
25 his **or her** arrest;~~[;]~~

26 then the court shall continue to suspend the person's operator's license or privilege to
27 operate a motor vehicle, **but in no event for a period longer than the license suspension**

1 period applicable to the person under Sections 6 and 11 of this Act. The provisions of
 2 this section shall not be construed as limiting the person's ability to challenge any prior
 3 convictions or license suspensions or refusals.

4 ➔Section 15. KRS 189A.250 is amended to read as follows:

5 In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(~~c~~)(~~b~~),
 6 if the court determines by a preponderance of the evidence that:

- 7 (1) The person was charged and arrested by a peace officer with violation of KRS
 8 189A.010;
- 9 (2) The officer had reasonable grounds to believe that the person was operating or in
 10 physical control of a motor vehicle in violation of KRS 189A.010;
- 11 (3) There is probable cause to believe that the person committed the violation of KRS
 12 189A.010(1) as charged; and
- 13 (4) There is probable cause to believe that the person was involved in an accident that
 14 resulted in death or serious physical injury as defined in KRS 500.080 to a person
 15 other than the defendant;

16 then the court shall continue the suspension of the person's operator's license or privilege
 17 to operate a motor vehicle during the pendency of the proceedings, but in no event for a
 18 period longer than the license suspension period applicable to the person under
 19 Sections 6 and 11 of this Act.

20 ➔SECTION 16. KRS 189A.340 IS REPEALED AND REENACTED TO READ
 21 AS FOLLOWS:

22 (1) (a) If a person's license is suspended pursuant to this chapter and the initial
 23 suspension was for a violation of subsection (1)(a), (b), (e), or (f) of Section
 24 2 of this Act, the sole license the person shall be eligible for is an ignition
 25 interlock license pursuant to this section.

26 (b) If a person's license is suspended pursuant to this chapter and the initial
 27 suspension was for a violation of subsection (1)(c) or (d) of Section 2 of this

1 Act, the person shall be eligible for an ignition interlock license pursuant to
2 this section and may be eligible for a hardship license pursuant to Section
3 22 of this Act.

4 (2) (a) A person may apply for an ignition interlock license anytime, including
5 after receiving the notices under Section 10 of this Act or after his or her
6 license has been suspended pursuant to this chapter.

7 (b) If at the time the person applies for an ignition interlock license, the
8 person's license has been suspended pursuant to this chapter, the person
9 shall be authorized to drive, without any stops, to an ignition interlock
10 device provider to have a functioning ignition interlock device installed in
11 his or her motor vehicle or motorcycle. This subsection shall only apply if
12 the person has a completed ignition interlock license application in the
13 motor vehicle or motorcycle.

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

16 (a) Submit an application for an ignition interlock license;

17 (b) Provide proof of motor vehicle insurance;

18 (c) Provide an ignition interlock certificate of installation issued by an ignition
19 interlock device provider; and

20 (d) Provide any other information required by administrative regulations
21 promulgated by the Transportation Cabinet under Section 18 of this Act.

22 (4) An ignition interlock license shall restrict the person to operating only a motor
23 vehicle or motorcycle equipped with a functioning ignition interlock device,
24 unless the person qualifies for an employer exemption under subsection (6) of
25 this section. This restriction shall remain in place for:

26 (a) If a person's license was suspended pretrial pursuant to Section 12 of this
27 Act, the required suspension period under subsection (6) of Section 12 of

1 this Act;

2 (b) If a persons' license was suspended pursuant to Section 6 of this Act or
3 Section 11 of this Act:

4 1. The required suspension period under subsection (1) of Section 6 of
5 this Act; and

6 2. If the maximum suspension period under subsection (1)(a) of Section
7 6 of this Act has not yet been met, until the Transportation Cabinet
8 has received a declaration from the person's ignition interlock device
9 provider, in a form provided or approved by the cabinet, certifying that
10 none of the following violations has occurred in the one hundred
11 twenty (120) consecutive days prior to the date of releasing the ignition
12 interlock device restriction:

13 a. Failure to take any random breath alcohol concentration test
14 unless a review of the digital image confirms that the motor
15 vehicle or motorcycle was not occupied by a driver at the time of
16 the missed test;

17 b. Failure to pass any random retest with a breath alcohol
18 concentration of 0.02 or lower unless a subsequent test
19 performed within ten (10) minutes registers a breath alcohol
20 concentration lower than 0.02, and the digital image confirms
21 the same person provided both samples;

22 c. Failure of the person, or his or her designee, to appear at the
23 ignition interlock device provider when required for
24 maintenance, repair, calibration, monitoring, inspection, or
25 replacement of the device;

26 d. Failure of the person to pay fees established pursuant to
27 subsection (7) of this section;

- 1 *e. Tampering with an installed ignition interlock device with the*
2 *intent of rendering it defective; or*
- 3 *f. Altering, concealing, hiding, or attempting to alter, conceal, or*
4 *hide, the person's identity from the ignition interlock device's*
5 *camera while providing a breath sample;*
- 6 *(c) If a person's license was suspended pursuant to Section 8 of this Act, for the*
7 *required suspension period under subsection (2) of Section 8 of this Act; or*
- 8 *(d) If a person's license suspension was extended pursuant to Section 17 of this*
9 *Act, the required suspension period under subsection (1) of Section 17 of*
10 *this Act.*
- 11 *(5) (a) The time period a person:*
- 12 *1. Holds a valid ignition interlock license pursuant to this section; or*
13 *2. Receives alcohol or substance abuse treatment in an inpatient*
14 *residential facility;*
- 15 *shall apply on a day-for-day basis toward satisfying the suspension periods*
16 *detailed in subsection (4) of this section.*
- 17 *(b) Except as provided in paragraph (c) of this subsection, the Transportation*
18 *Cabinet shall give the person a day-for-day credit for any time period the*
19 *person:*
- 20 *1. Held a valid ignition interlock license; or*
21 *2. Received alcohol or substance abuse treatment in an inpatient*
22 *residential facility.*
- 23 *(c) A person shall not receive day-for-day credit for days the person utilized the*
24 *employer exemption in accordance with subsection (6) of this section and*
25 *drove an employer's motor vehicle or motorcycle not equipped with a*
26 *functioning ignition interlock device.*
- 27 *(6) (a) Except as provided in paragraph (b) of this subsection, the installation of an*

1 ignition interlock device is not necessary on a motor vehicle or motorcycle
2 owned, leased, or rented by the person's employer or a motor vehicle or
3 motorcycle whose care or maintenance is the temporary responsibility of the
4 employer, and driven at the direction of the person's employer as a
5 requirement of employment during working hours. To qualify for this
6 employer exemption, the person shall provide the Transportation Cabinet
7 with a sworn statement from his or her employer stating that the person's
8 employment requires the person to operate a motor vehicle or motorcycle
9 owned by the employer or other persons during working hours.

10 (b) The employer exemption shall not apply when the employer's motor vehicle
11 or motorcycle is assigned exclusively to the person and used solely for
12 commuting to and from employment.

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

15 1. An installation fee for an alternative fuel vehicle or a vehicle with a
16 push button starter not to exceed one hundred thirty dollars (\$130), an
17 installation fee for all other vehicles not to exceed one hundred dollars
18 (\$100);

19 2. A monthly fee not to exceed one hundred dollars (\$100);

20 3. A removal fee not to exceed thirty dollars (\$30);

21 4. A reset fee not to exceed fifty dollars (\$50); or

22 5. A missed appointment fee not to exceed thirty-five dollars (\$35).

23 (b) A person who is issued an ignition interlock license shall pay fees as
24 established in his or her lease agreement with the ignition interlock device
25 provider for any ignition interlock device installed in his or her motor
26 vehicle or motorcycle. However, the fees shall never be more than allowed
27 under paragraph (a) of this subsection and are subject to paragraph (c) of

1 this subsection.

2 (c) Any person who has an income:

3 1. At or below two hundred percent (200%) but above one hundred fifty
 4 percent (150%) of the federal poverty guidelines, shall pay only
 5 seventy-five percent (75%) of fees established pursuant to paragraph
 6 (a) of this subsection;

7 2. At or below one hundred fifty percent (150%) but above one hundred
 8 percent (100%) of the federal poverty guidelines, shall pay only fifty
 9 percent (50%) of fees established pursuant to paragraph (a) of this
 10 subsection; or

11 3. At or below one hundred percent (100%) of the federal poverty
 12 guidelines, shall pay only twenty-five percent (25%) of fees established
 13 pursuant to paragraph (a) of this subsection;

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

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

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

26 ➔Section 17. KRS 189A.345 is amended to read as follows:

27 (1) (a) No person who is issued an ignition interlock license under Section 16 of

1 **this Act** shall operate a motor vehicle or motorcycle without a functioning
 2 ignition interlock device **or at any time, place, or for any purpose other than**
 3 **authorized**~~[when prohibited to do so]~~ under **Section 16 of this Act**~~[KRS~~
 4 ~~189A.420]~~.

5 **(b) Any person who violates the provisions of paragraph (a) of this subsection**
 6 **shall be guilty of a Class A misdemeanor, and shall have his or her license**
 7 **suspended by the Transportation Cabinet for the initial period of suspension**
 8 **under Section 6 of this Act for an additional six (6) months.**

9 **(2) (a) No person who is issued an ignition interlock license under Section 16 of**
 10 **this Act shall request, permit, or allow another person to:**

11 **1. Start a motor vehicle or motorcycle equipped with an ignition**
 12 **interlock device; or**

13 **2. Take a subsequent breath alcohol concentration test;**

14 **for the purpose of providing an operable motor vehicle or motorcycle for**
 15 **that person subject to the ignition interlock license to drive in violation of**
 16 **Section 16 of this Act.**

17 **(b) Any person who violates paragraph (a) of this subsection shall:**

18 **1. For a first offense, be guilty of a Class A misdemeanor; and**

19 **2. For a second or subsequent offense, be guilty of a Class D felony.**

20 ~~**(3)**~~~~**(2)**~~ (a) No person shall start a motor vehicle or motorcycle equipped with an
 21 ignition interlock device for the purpose of providing an operable motor
 22 vehicle or motorcycle to a person subject to the prohibition established in
 23 **Section 16 of this Act**~~[KRS 189A.420]~~.

24 (b) Any person who violates paragraph (a) of this subsection shall:

25 1. For a first offense, be guilty of a Class B misdemeanor; and

26 2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

27 ~~**(4)**~~~~**(3)**~~ (a) No person shall:

- 1 1. Knowingly install a defective ignition interlock device on a motor
2 vehicle or motorcycle;~~or~~
- 3 2. Tamper with an installed ignition interlock device with the intent of
4 rendering it defective;or

5 **3. Alter, conceal, hide, or attempt to alter, conceal, or hide, the person's**
6 **identity from the ignition interlock device's camera while providing a**
7 **breath sample.**

8 (b) Any person who violates paragraph (a) of this subsection shall:

- 9 1. For a first offense, be guilty of a Class B misdemeanor; and
- 10 2. For a second or subsequent offense, be guilty of a Class A misdemeanor
11 and be prohibited from installing ignition interlock devices or directing
12 others in the installation of ignition interlock devices.

13 ~~(5)~~~~(4)~~ (a) No person shall direct another person to install a defective ignition
14 interlock device on a motor vehicle or motorcycle when the person giving the
15 direction knows that the ignition interlock device is defective.

16 (b) Any person who violates paragraph (a) of this subsection shall:

- 17 1. For a first offense, be guilty of a Class B misdemeanor; and
- 18 2. For a second or subsequent offense, be guilty of a Class A misdemeanor
19 and be prohibited from directing others in the installation of ignition
20 interlock devices or installing ignition interlock devices.

21 **(6) (a) No person shall knowingly assist a person who is issued an ignition**
22 **interlock license in making a false statement in order to qualify for the**
23 **employer exemption under subsection (6) of Section 16 of this Act.**

24 **(b) Any person who violates paragraph (a) of this subsection, is guilty of a**
25 **Class A misdemeanor and shall have his or her motor vehicle or motorcycle**
26 **operator's license suspended by the Transportation Cabinet for six (6)**
27 **months.**

1 ➔Section 18. KRS 189A.500 is repealed, reenacted, amended, and renumbered as
2 KRS 189A.350 to read as follows:

3 (1) (a) The Transportation Cabinet shall:

4 ~~1.[(a)]~~ Issue ignition interlock license application forms and other forms
5 necessary for the implementation of ignition interlock licenses;

6 ~~2.[(b)]~~ Create a uniform ***ignition interlock*** certificate of installation to be
7 provided to a defendant by an ignition interlock provider upon
8 installation of ~~an~~~~[a-certified]~~ ignition interlock device;

9 ~~3.[(c)]~~ Create an ignition interlock license. ***The ignition interlock license***
10 ***may be a regular driver's or operator's license with an ignition***
11 ***interlock restriction printed on the license***~~[for issuance to any person~~
12 ~~granted authorization by the court to receive an ignition interlock~~
13 ~~license];~~

14 ~~4.~~ ***Require a person issued an ignition interlock license to maintain***
15 ***motor vehicle insurance for the duration of his or her ignition***
16 ***interlock license;***

17 ~~5.[(d)]~~ Certify ignition interlock devices approved for use in the
18 Commonwealth;

19 ~~6.[(e)]~~ Publish and periodically update on the Transportation Cabinet
20 Web site a list of contact information, including a link to the Web site of
21 each certified ignition interlock device provider, with the entity
22 appearing first on the list changing on a statistically random basis each
23 time a unique visitor visits the list of the approved ignition interlock
24 installers and the approved servicing and monitoring entities; and

25 ~~7.[(f)]~~ ***Except as provided in paragraph (b) of this subsection,***
26 promulgate administrative regulations to carry out the provisions of this
27 section.

1 **(b) The Transportation Cabinet shall not create any ignition interlock license**
 2 **or device violations in administrative regulations. The sole ignition**
 3 **interlock license or device violations are established in this chapter.**

4 (2) No model of ignition interlock device shall be certified for use in the
 5 Commonwealth unless it meets or exceeds standards promulgated by the
 6 Transportation Cabinet pursuant to this section.

7 (3) In bidding for ~~a~~~~the~~ contract with the Transportation Cabinet to provide ignition
 8 interlock devices and servicing or monitoring or both, the ignition interlock **device**
 9 provider shall take into account that some defendants will not be able to pay the full
 10 **amount**~~cost~~ of the **fees established pursuant to subsection (7)(a) of Section 16 of**
 11 **this Act**~~ignition interlock device or servicing and monitoring fees~~.

12 (4) ~~Upon June 24, 2015, }~~Any contract between the cabinet and an ignition interlock
 13 device provider shall include the following:

14 (a) A requirement that the provider accept reduced payments as a full payment for
 15 all purposes from persons determined to be **at or below two hundred percent**
 16 **(200%) of the federal poverty guidelines**~~indigent~~ by **the Transportation**
 17 **Cabinet as provided by subsection (7)(c) of Section 16 of this Act**~~a court~~
 18 ~~authorizing the use of an ignition interlock device pursuant to KRS~~
 19 ~~189A.420(7)}~~;

20 (b) A requirement that no unit of state or local government and no public officer
 21 or employee shall be liable for the cost of purchasing or installing the ignition
 22 interlock device or associated costs;

23 (c) A requirement that the provider agree to a price for the cost of leasing or
 24 purchasing an ignition interlock device and any associated servicing or
 25 monitoring fees during the duration of the contract. This price shall not be
 26 increased but may be reduced during the duration of the contract;

27 (d) Requirements and standards for the servicing, inspection, and monitoring of

- 1 the ignition interlock device;
- 2 (e) Provisions for training for service center technicians and clients;
- 3 (f) A requirement that the provider electronically transmit reports on driving
4 activity within seven (7) days of servicing an ignition interlock device to the
5 Transportation Cabinet~~[respective court]~~, prosecuting attorney, and
6 defendant;
- 7 (g) Requirements for a transition plan for the ignition interlock device provider
8 before the provider leaves the state to ensure that continuous monitoring is
9 achieved and to provide a minimum forty-five (45) day notice to the cabinet of
10 any material change to the design of the ignition interlock device, or any
11 changes to the provider's~~[vendor's]~~ installation, servicing, or monitoring
12 capabilities;
- 13 (h) A requirement that, before beginning work, the ignition interlock device
14 provider have and maintain insurance as approved by the cabinet, including
15 provider's~~[vendor's]~~ public liability and property damage insurance, in an
16 amount determined by the cabinet, that covers the cost of defects or problems
17 with product design, materials, workmanship during manufacture, calibration,
18 installation, device removal, or any use thereof;
- 19 (i) A provision requiring that an ignition interlock provider agree to hold
20 harmless and indemnify any unit of state or local government, public officer,
21 or employee from all claims, demands, and actions, as a result of damage or
22 injury to persons or property which may arise, directly or indirectly, out of any
23 action or omission by the ignition interlock provider relating to the
24 installation, service, repair, use, or removal of an ignition interlock device;
- 25 (j) A requirement that a warning label to be affixed to each ignition interlock
26 device upon installation. The label shall contain a warning that any person
27 who tampers with, circumvents, or otherwise misuse the device commits a

- 1 violation of law under KRS 189A.345;[~~and~~]
- 2 (k) A requirement that a provider will remove an ignition interlock device without
- 3 cost, if the device is found to be defective; and
- 4 (l) A requirement that a provider have at least one (1) ignition interlock device
- 5 service location in each Transportation Cabinet highway district.
- 6 (5) (a) The Transportation Cabinet may require ignition interlock device providers
- 7 to pay the following fees:
- 8 1. An application fee not to exceed five hundred dollars (\$500);
- 9 2. An annual renewal fee not to exceed two hundred dollars (\$200);
- 10 3. An annual service inspection fee not to exceed one hundred dollars
- 11 (\$100); or
- 12 4. A revisit fee for a failed inspection not to exceed one hundred fifty
- 13 dollars (\$150).
- 14 (b) Any fees collected pursuant to this subsection shall be paid to the ignition
- 15 interlock administration fund established in Section 20 of this Act.

16 ➔SECTION 19. A NEW SECTION OF KRS 189A.005 TO 189A.350 IS

17 CREATED TO READ AS FOLLOWS:

- 18 (1) (a) In every instance where the Transportation Cabinet takes action which
- 19 affects:
- 20 1. A person's eligibility for an ignition interlock license;
- 21 2. The calculation of a person's one hundred twenty (120) consecutive
- 22 days;
- 23 3. The calculation of a person's day-for-day credit;
- 24 4. A person's eligibility for an employer exemption; or
- 25 5. The calculation of a person's income and where that income places
- 26 the person on the federal poverty guidelines;
- 27 under Section 16 of this Act, that action shall include a letter that notifies

1 the person of the action, informs the person of the basis of the action, and
 2 informs the person of his or her right to request an informal hearing within
 3 twenty (20) days of receiving the notice.

4 (b) The informal hearing shall be scheduled as early as practical within twenty
 5 (20) days after receipt of the request at a time and place designated by the
 6 cabinet.

7 (c) The informal hearing shall be conducted by a hearing officer designated by
 8 the commissioner and shall adhere to the requirements of KRS 13B.090. At
 9 the hearing, the complainant shall be given a statement of why the cabinet
 10 took the action, and both the cabinet and the complainant shall have the
 11 right to be advised by an attorney with the burden of proof resting with the
 12 complainant. After the hearing, the hearing officer shall prepare a written
 13 report of the hearing with a recommended decision to the commissioner.
 14 The final decision shall be made by the commissioner. As used in this
 15 paragraph, "commissioner" means the commissioner of the cabinet's
 16 Office of Vehicle Regulation.

17 (2) An aggrieved party may file a request for reconsideration of the commissioner's
 18 final decision with the cabinet's Office of Legal Services within twenty (20) days
 19 after receipt of the informal hearing decision. The Office of Legal Services shall
 20 issue a decision within twenty (20) days after receipt of the request.

21 (3) An aggrieved party may appeal the Office of Legal Services' decision within
 22 twenty (20) days after receipt of the decision, and upon appeal an administrative
 23 hearing shall be conducted in accordance with KRS Chapter 13B.

24 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 189A IS CREATED
 25 TO READ AS FOLLOWS:

26 (1) The ignition interlock administration fund is created as a restricted fund. The
 27 restricted fund shall consist of funds deposited pursuant to Sections 5 and 18 of

1 *this Act. The Transportation Cabinet shall administer the fund.*

2 *(2) The funds deposited pursuant to:*

3 *(a) Section 5 of this Act shall be appropriated to the Department of Vehicle*
 4 *Regulation; and*

5 *(b) Section 18 of this Act shall be appropriated to the Office of Highway Safety;*
 6 *for administrative costs associated with ignition interlock pursuant to this*
 7 *chapter.*

8 *(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of*
 9 *the fiscal year shall not lapse but shall be carried forward into the succeeding*
 10 *fiscal year to be used for the purposes set forth in subsection (2) of this section.*

11 *(4) Any interest earned on moneys in the fund shall become a part of the fund and*
 12 *shall not lapse.*

13 ➔Section 21. KRS 189A.400 is amended to read as follows:

14 (1) The *sentencing court*~~[District Court]~~ shall have~~[exclusive]~~ jurisdiction over the
 15 issuance of~~[ignition interlock and]~~ hardship licenses.

16 (2) The *Commonwealth's or* county attorney shall review applications submitted to the
 17 *sentencing court*~~[District Court]~~ and may object to the issuance of~~[ignition~~
 18 ~~interlock and]~~ hardship licenses.

19 ➔Section 22. KRS 189A.410 is amended to read as follows:

20 (1) At any time *during*~~[following]~~ the~~[expiration of the minimum license]~~ suspension
 21 periods enumerated in:

22 (a) *Section 6 of this Act for violation of subsection (1)(c) or (d) of Section 2 of*
 23 *this Act*~~[KRS 189A.010(6)]; or~~

24 (b) *Section 8 of this Act relating to a violation of subsection (1)(c) or (d) of*
 25 *Section 2 of this Act*~~[KRS 189A.070 for a violation of:~~

26 1. ~~— KRS 189A.010(1)(c) or (d); or~~

27 2. ~~— KRS 189A.010(1)(a), (b), or (e) for a first offense within a ten (10) year~~

1 ~~period if, at the time of the offense, none of the aggravating~~
2 ~~circumstances enumerated under KRS 189A.010(11) were present while~~
3 ~~the person was operating or in control of a motor vehicle];~~

4 the court may grant the person hardship driving privileges for the balance of the
5 suspension period imposed by the Transportation Cabinet~~[court, upon written~~
6 ~~petition of the defendant]~~, if the court finds reasonable cause to believe that
7 revocation would hinder the person's ability to continue his or her employment;
8 continue attending school or an educational institution; obtain necessary medical
9 care; attend driver improvement, alcohol, or substance abuse education programs;
10 or attend court-ordered counseling or other programs.

- 11 (2) Before granting hardship driving privileges, the court shall order the person to:
- 12 (a) Provide the court with proof of motor vehicle insurance;
- 13 (b) If necessary, provide the court with a written, sworn statement from his or her
14 employer, on a form provided by the cabinet, detailing his or her job, hours of
15 employment, and the necessity for the person to use the employer's motor
16 vehicle either in his or her work at the direction of the employer during
17 working hours, or in travel to and from work if the license is sought for
18 employment purposes; and
- 19 (c) If the person is self-employed, to provide the information required in
20 paragraph (b) of this subsection together with a sworn statement as to its truth;
- 21 (d) Provide the court with a written, sworn statement from the school or
22 educational institution which he attends, of his or her class schedule, courses
23 being undertaken, and the necessity for the person to use a motor vehicle in
24 his travel to and from school or other educational institution if the license is
25 sought for educational purposes. Licenses for educational purposes shall not
26 include participation in sports, social, extracurricular, fraternal, or other
27 noneducational activities;

- 1 (e) Provide the court with a written, sworn statement from a physician, or other
 2 medical professional licensed but not certified under the laws of Kentucky,
 3 attesting to the person's normal hours of treatment, and the necessity to use a
 4 motor vehicle to travel to and from the treatment if the license is sought for
 5 medical purposes;
- 6 (f) Provide the court with a written, sworn statement from the director of any
 7 alcohol or substance abuse education or treatment program as to the hours in
 8 which the person is expected to participate in the program, the nature of the
 9 program, and the necessity for the person to use a motor vehicle to travel to
 10 and from the program if the license is sought for alcohol or substance abuse
 11 education or treatment purposes;
- 12 (g) Provide the court with a copy of any court order relating to treatment,
 13 participation in driver improvement programs, or other terms and conditions
 14 ordered by the court relating to the person which require him or her to use a
 15 motor vehicle in traveling to and from the court-ordered program. The judge
 16 shall include in the order the necessity for the use of the motor vehicle; and
- 17 (h) Provide to the court any information as may be required by administrative
 18 regulation of the Transportation Cabinet.
- 19 (3) The court shall not issue a hardship license to a person who has refused to take an
 20 alcohol concentration or substance test or tests offered by a law enforcement officer.
- 21 ➔Section 23. KRS 189A.440 is amended to read as follows:
- 22 (1) No person who is issued~~[an ignition interlock license under KRS 189A.420 or]~~ a
 23 hardship license shall operate a motor vehicle at any time, place, or for any purpose
 24 other than those authorized upon the face of the~~[ignition interlock or]~~ hardship
 25 license issued under KRS 189A.410.
- 26 (2) Any defendant who violates the provisions of subsection (1) of this section is guilty
 27 of a Class A misdemeanor, and shall have his ***or her*** license ***suspended by the***

1 **Transportation Cabinet**~~[revoked]~~ for the initial period of **suspension under**
 2 **Section 6 of this Act for**~~[revocation plus]~~ an additional six (6) months.

3 (3) Any defendant or any other person who knowingly assists the defendant in making a
 4 false application statement is guilty of a Class A misdemeanor and shall have his **or**
 5 **her** motor vehicle or motorcycle operator's license **suspended by the**
 6 **Transportation Cabinet**~~[revoked]~~ for six (6) months.

7 ➔Section 24. KRS 186.550 is amended to read as follows:

8 (1) **Except for offenses committed under KRS Chapter 189A,** the clerk of any court
 9 having jurisdiction over offenses committed under motor vehicle laws shall report
 10 upon a form furnished by the cabinet the conviction, pleas or forfeiture of bond
 11 arising under motor vehicle laws, to the cabinet within fifteen (15) days.

12 (2) The court shall take up the motor vehicle operator's license certificate of a person
 13 convicted of any of the offenses for which mandatory revocation is provided by
 14 KRS 186.560 and have it immediately forwarded to the cabinet with the report
 15 covering the conviction.

16 ➔Section 25. KRS 186.560 is amended to read as follows:

17 (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle
 18 upon receiving record of his or her:

19 (a) Conviction of any of the following offenses:

- 20 1. Murder or manslaughter resulting from the operation of a motor vehicle;
- 21 2. Driving a vehicle which is not a motor vehicle while under the influence
 22 of alcohol or any other substance which may impair one's driving ability;
- 23 3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640
 24 or any law requiring the registration of motor vehicles or regulating their
 25 operation on highways;
- 26 4. Any felony in the commission of which a motor vehicle is used;
- 27 5. Conviction or forfeiture of bail upon three (3) charges of reckless

- 1 driving within the preceding twelve (12) months;
- 2 6. Conviction of driving a motor vehicle involved in an accident and
3 failing to stop and disclose his identity at the scene of the accident;
- 4 7. Conviction of theft of a motor vehicle or any of its parts, including the
5 conviction of any person under the age of eighteen (18) years;
- 6 8. Failure to have in full force and effect the security required by Subtitle
7 39 of KRS Chapter 304 upon conviction of a second and each
8 subsequent offense within any five (5) year period;
- 9 9. Conviction for fraudulent use of a driver's license or use of a fraudulent
10 driver's license to purchase or attempt to purchase alcoholic beverages,
11 as defined in KRS 241.010, in violation of KRS 244.085(4); and
- 12 10. Conviction of operating a motor vehicle, motorcycle, or moped without
13 an operator's license as required by KRS 186.410; or
- 14 (b) Being found incompetent to stand trial under KRS Chapter 504.
- 15 (2) If the person convicted of any offense named in subsection (1) of this section or
16 who is found incompetent to stand trial is not the holder of a license, the cabinet
17 shall deny the person so convicted a license for the same period of time as though
18 he had possessed a license which had been revoked. If through an inadvertence the
19 defendant should be issued a license, the cabinet shall forthwith cancel it.
- 20 (3) The cabinet, upon receiving a record of the conviction of any person upon a charge
21 of operating a motor vehicle while the license of that person is denied, or
22 suspended, or revoked, or while his privilege to operate a motor vehicle is
23 withdrawn, shall immediately extend the period of the first denial, suspension,
24 revocation, or withdrawal for an additional like period.
- 25 (4) The revocation or denial of a license or the withdrawal of the privilege of operating
26 a motor vehicle for a violation of subsection (1)(a)1. of this section shall be for a
27 period of not less than five (5) years. Revocations or denials under this section shall

1 not be subject to any lessening of penalties authorized under any other provision of
2 this section or any other statute.

3 (5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other
4 cases, the revocation or denial of a license or the withdrawal of the privilege of
5 operating a motor vehicle under this section shall be for a period of six (6) months,
6 except that if the same person has had one (1) previous conviction of any offense
7 enumerated in subsection (1) of this section, regardless of whether the person's
8 license was revoked because of the previous conviction, the period of the
9 revocation, denial, or withdrawal shall be one (1) year. If the person has had more
10 than one (1) previous conviction of the offenses considered collectively as
11 enumerated in subsection (1) of this section, regardless of whether the person's
12 license was revoked for any previous conviction, the period of revocation, denial, or
13 withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the
14 written recommendation of the court in which any person has been convicted of
15 violating KRS 189.520(1) or 244.085(4) as relates to instances in which a driver's
16 license or fraudulent driver's license was the identification used or attempted to be
17 used in the commission of the offense, who has had no previous conviction of said
18 offense, the person's operator's license shall not be revoked, but the person's
19 operator's license shall be restricted to any terms and conditions the secretary in his
20 discretion may require, provided the person has enrolled in an alcohol or substance
21 abuse education or treatment program as the cabinet shall require. If the person fails
22 to satisfactorily complete the education or treatment program or violates the
23 restrictions on his operator's license, the cabinet shall immediately revoke his
24 operator's license for a period of six (6) months.

25 (6) In order to secure the reinstatement of a license to operate a motor vehicle or
26 motorcycle restored following a period of suspension ~~or revocation~~ pursuant to
27 KRS ***Chapter 189A***~~[189A.070, 189A.080, and 189A.090]~~, the person whose license

1 is suspended~~[or revoked]~~ shall comply with the fees and other procedures of the
2 Transportation Cabinet with regard to the reinstatement of suspended~~[or revoked]~~
3 licenses.

4 (7) The cabinet shall revoke the license of any operator of a motor vehicle upon
5 receiving notification that the person is under age eighteen (18) and has dropped out
6 of school or is academically deficient, as defined in KRS 159.051(1).

7 (8) A person under the age of eighteen (18) who is convicted of the offenses of
8 subsections (1) or (3) of this section, except for subsection (1)(a)8. or 9. of this
9 section, shall have his license revoked until he reaches the age of eighteen (18) or
10 shall have his license revoked as provided in this section, whichever penalty will
11 result in the longer period of revocation.

12 (9) A revocation or denial of a license or the withdrawal of the privilege of operating a
13 motor vehicle under this section due to a person being found incompetent to stand
14 trial shall extend until the person is found competent to stand trial or the criminal
15 case is dismissed.

16 ➔Section 26. The following KRS sections are repealed:

17 189A.080 Surrender and forwarding of suspended or revoked licenses.

18 189A.320 Court reporting of convictions and license revocations to Transportation
19 Cabinet.

20 189A.420 Required information for issuance of hardship license -- Prerequisite to court
21 authorization for person seeking to operate motor vehicle or motorcycle equipped
22 with ignition interlock device -- Fees and costs.

23 189A.430 Permit card and window decal for hardship driving privileges -- Requirement
24 to carry permit -- Penalty for failure to display decal.

25 189A.450 Service fee for hardship driving privileges.

26 ➔Section 27. This Act takes effect on January 1, 2020.