KENTUCKY

CRIMINAL LAW MANUAL

Ninth Edition

STEVE BESHEAR

Governor

J. Michael Brown

Secretary
Kentucky Justice and Public Safety Cabinet

John W. Bizzack, Ph.D.

Commissioner
Department of Criminal Justice Training

FOREWORD

TO THE LAW ENFORCEMENT OFFICERS OF KENTUCKY:

It is with pleasure that I introduce to the law enforcement officers of Kentucky the Ninth Edition of the "Kentucky Criminal Law Manual". The Manual is prepared by attorneys from the Department of Criminal Justice Training of the Kentucky Justice and Public Safety Cabinet. This reference tool has been a valuable asset for the Kentucky Law Enforcement community for many years.

As Governor of the Commonwealth of Kentucky, I thank all officers for their continued professionalism and courage in the delivery of law enforcement services to the citizens of this state.

Steve Beshear
Governor
Commonwealth of Kentucky

FOREWORD

The Department of Criminal Justice Training of the Kentucky Justice and Public Safety Cabinet has long provided the highest quality training to law enforcement officers of the Commonwealth. On a daily basis, the Department of Criminal Justice Training strives to support the law enforcement community. The Ninth Edition of the "Kentucky Criminal Law Manual" is illustrative of the Department's commitment to service.

The Manual is in an online format, which enables the Legal Training Section of the Department of Criminal Justice Training to provide timely updates as the law changes. The Department will continue to be responsive to the demands and needs of law enforcement in the Commonwealth of Kentucky as it strives to provide quality protection to its citizens.

J. Michael Brown
Secretary,
Kentucky Justice and Public Safety Cabinet
Commonwealth of Kentucky

PREFACE

The Ninth Edition of the "Kentucky Criminal Law Manual" continues the change in format and contents begun in the Eighth Edition. However, in our zeal to provide as much information as possible to the officers in the field, we crammed the Eighth Edition with too many pages for the available binders – pages became hard to turn without damaging the holes. Instead of just issuing replacement pages as we planned, we found it necessary to issue a whole new edition. In this new edition we have reduced the number of pages to fit the binders better, also accomplishing some minor savings in printing costs to you. To do this we have made some adjustments to the format, reducing the number of blank pages and deleting some statutes and portions of statutes which we felt were of limited or specialized use to the officer in the field.

We continue to provide copies to Basic Trainees and officers attending Legal Update courses. The Manual is available on our web site in .pdf format in standard notebook binder format (8 ½ by 11). We will continue to provide one copy of a CD containing the Manual to agencies for downloading to laptops and other computers. Agencies can download the Manual for local printing.

The Manual was written and edited by the staff of the Legal Training Section: Kenneth Alexander, Shawn Herron, Michael Schwendeman, Thomas Fitzgerald, Kelley Calk, Kevin McBride, Michael Board, Anna Hudgins, and Helen Koger, under the supervision of Gerald Ross. The Manual was put in final print and web-site form by Kris Bowerman.

If you have any suggestions for improving the form or substance of the Manual, please let us know.

John W. Bizzack, Ph.D.
Commissioner
Department of Criminal Justice Training

ADVISORY WARNING:

The Kentucky Criminal Law Manual is designed to be a handy reference tool for officers who may not have ready access to the Kentucky Revised Statutes. It is not a “certified” official version of the Kentucky Revised Statutes. To save space the editors have omitted some sections of the Kentucky Revised Statutes that have limited applicability for law enforcement officers, identifying those KRS Chapters with the annotation “selected sections”. Where portions of sections or sentences have been omitted, those areas are identified by “* * * *” for entire subsections or “. . . . .” where only portions of sentences are omitted. The editors have proof-read and reviewed the contents for accuracy, but officers should consult an official version of the before taking any actions which may have legal consequences.

Non-statutory materials and editor’s notes that appear in the Manual represent the opinions of the editors, are offered as guidance in statutory and case law interpretation, are not “ legal opinions”, and should not be relied upon or cited as legal authority for any actions. Consult legal counsel when in doubt about the meaning of a statute or court decision.

EDITOR'S EXPLANATION OF STYLE AND FORMAT

Type Style

Boldface type. Throughout the Manual, bold-face type has been used by the editors to draw attention to particular language within a statute (for example to call attention to definitions contained in a statute), but such stress is not used in official versions of the Kentucky Revised Statutes. Boldface type is also used for KRS section titles and headings and do appear as such in official versions.

Boldface italicized type. Since many readers find footnotes to be distracting and are often overlooked, the editors have chosen to use *boldface italicized type* to either imbed explanatory material at the end of a KRS subsection or at the end of the KRS section and have eliminated footnotes completely.

[Bracketed boldface italicized type] The editors have used *[bracketed bold-face italicized type]* to imbed within a statute KRS section titles where the section cites other statutes by number only, or to insert brief, non-statutory definitions within the statute.

Page Numbering

To avoid the problems of strictly numerical sequencing, page numbers in this edition follow the style of the 2004 edition – consisting of two or three numerals separated by a dot, instead of a combination of numerals and letters as in editions prior to 2004:

- The first numeral is the Section Number.
- Where the page number has only two numerals (the Table of Contents and Sections 3 and 4), the second numeral is the page number within the section.
- For the rest of the sections (divided into subsections to allow for easier supplementation), the second numeral is a subsection number. The third numeral is the page number within the subsection.
- The page number in either of the above is bold faced and slightly larger.

Format

Original Format. Users are already familiar with this format: printed on 5 ½" by 81/2" paper, hole-punched for a small 3-ring binder, using 9 point Arial Narrow font. This format is available on-line and on CD in .pdf format, accessible by using any computer program capable of reading that format (such as Microsoft Word or Adobe Acrobat Reader). When downloaded into a computer it should maintain the same pagination as the printed original size. Instructions for downloading and printing appear on the web site. Many users will be able to use their personal printers to print either version. Commercial printers should be able to print directly from the on-line or CD.

Standard Notebook Binder Format. This larger format (designed to be printed on standard sized 8 ½" by 11" paper and using a larger 12 point Arial Narrow font) is available on-line and on CD in .pdf format for those who find it difficult to find or afford a local printer and who do not have the capabilities themselves to print the smaller format or who simply find the larger format easier to read and use.

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THE CONSTITUTION OF THE UNITED STATES
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(Selected Sections)

FIRST AMENDMENT

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

SECOND AMENDMENT

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

FIFTH AMENDMENT

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

EIGHTH AMENDMENT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

FOURTEENTH AMENDMENT

Section. 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
* * * * *

CONSTITUTION OF KENTUCKY
"BILL OF RIGHTS"
(Selected Sections)

Section 1 Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, peaceable assembly, redress of grievances, bearing arms

All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned:

First: The right of enjoying and defending their lives and liberties.

Second: The right of worshipping Almighty God according to the dictates of their consciences.

Third: The right of seeking and pursuing their safety and happiness.

Fourth: The right of freely communicating their thoughts and opinions.

Fifth: The right of acquiring and protecting property.

Sixth: The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Seventh: The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.

Section 5 Right of religious freedom

No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience.

Section 7 Right of trial by jury

The ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this Constitution.

Section 8 Freedom of speech and of the press

Printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly or any branch of government, and no law shall ever be made to restrain the right thereof. Every person may freely and fully speak, write and print on any subject, being responsible for the abuse of that liberty.

Section 10 Security from search and seizure – Conditions of issuance of warrant

The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Section 11 Rights of accused in criminal prosecution – Change of venue

In all criminal prosecutions the accused has the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. He cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land; and in prosecutions by indictment or information, he shall have a speedy public trial by an impartial jury of the vicinage; but the General Assembly may provide by a general law for a change of venue in such prosecutions for both the defendant and the Commonwealth, the change to be made to the most convenient county in which a fair trial can be obtained.

Section 12 Indictable offense not to be prosecuted by information – Exceptions

No person, for an indictable offense, shall be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, or by leave of court for oppression or misdemeanor in office.

Section 13 Double jeopardy – Property not to be taken for public use without compensation

No person shall, for the same offense, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

Section 16 Right to bail – Habeas corpus

All prisoners shall be bailable by sufficient securities, unless for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

Section 17 Excessive bail or fine, or cruel punishment, prohibited

Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

KRS CHAPTER 446
CONSTRUCTION OF STATUTES
(Selected Sections)

KRS 446.010 Definitions for statutes generally

As used in the statute laws of this state, unless the context requires otherwise:
* * * * *
(2) "Animal" includes every warm-blooded living creature except a human being;
* * * * *
(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
* * * * *
(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;
(12) "Domestic animal" means any animal converted to domestic habitat;
(13) "Federal" refers to the United States;
(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;
* * * * *
(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
* * * * *
(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
* * * * *
(20) "May" is permissive;
(21) "Month" means calendar month;
(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
(23) "Owner" when applied to any animal, means any person having a property interest in such animal;
(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;
(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;
* * * * *
(29) "Shall" is mandatory;
(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
* * * * *

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
(33) "United States" includes territories, outlying possessions, and the District of Columbia;
* * * * *
(35) "Violate" includes failure to comply with;
* * * * *
(37) "Year" means calendar year;
(38) "City" includes town;
* * * * *

KRS 446.020 Singular includes plural – Masculine includes feminine

(1) A word importing the singular number only may extend and be applied to several persons or things, as well as to one (1) person or thing, and a word importing the plural number only may extend and be applied to one (1) person or thing as well as to several persons or things.
(2) A word importing the masculine gender only may extend and be applied to females as well as males.

KRS 446.080 Liberal construction – Statutes not retroactive – Common usage – Technical terms

(1) All statutes of this state shall be liberally construed with a view to promote their objects and carry out the intent of the legislature, and the rule that statutes in derogation of the common law are to be strictly construed shall not apply to the statutes of this state.
(2) There shall be no difference in the construction of civil, penal and criminal statutes.
(3) No statute shall be construed to be retroactive, unless expressly so declared.
(4) All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to such meaning.

KRS 446.140 Titles, headings and notes

Title heads, chapter heads, section and subsection heads or titles, and explanatory notes and cross references, in the Kentucky Revised Statutes, do not constitute any part of the law, except as provided in KRS 355.1-109 *[Uniform Commercial Code]*.

KRS CHAPTER 431
GENERAL PROVISIONS CONCERNING
CRIMES AND PUNISHMENTS
(Selected Sections)

KRS 431.005 Arrest by peace officers – By private persons

(1) A peace officer may make an arrest:
   (a) In obedience to a warrant; or
   (b) Without a warrant when a felony is committed in his presence; or
   (c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or
   (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or
   (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.
   (b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.
   (c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

EDITOR'S NOTE: The Kentucky Court of Appeals ruled that "member of an unmarried couple" includes homosexual couples, but not roommates unless engaged in an intimate (i.e., sexual) relationship. Ireland v. Davis, (957 S.W.2d 310 (Ky Ct. App. 1997) Although that case involved KRS 403.720, the terminology used there is identical to above and the court should interpret the statutes similarly.

(3) A peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the

presence of the officer.

KRS 431.007 Arrest powers of peace officers assisting in another county – Exception

(1) A peace officer, certified pursuant to KRS 15.380 to 15.404, who is directly employed as a police officer by a Kentucky city, county, or urban-county government and whose department meets the requirements of KRS 15.440 and a sheriff or deputy sheriff who has been certified pursuant to KRS 15.380 to 15.404, who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.

(2) The provisions of this section shall not:
   (a) Authorize assistance in any labor dispute or strike;
   (b) Authorize assistance by a constable or deputy constable;
   (c) Authorize assistance by a special local peace officer; or
   (d) Authorize assistance by a special deputy sheriff.

KRS 431.008 Insurance coverage for assistance rendered under KRS 431.007

When a peace officer specified in KRS 431.007 is lawfully conducting an assistance operation under KRS 431.007, any insurance relative to the performance of his duties, including, but not limited to, workers' compensation, health, liability, and motor vehicle insurance, maintained by the peace officer or the peace officer's employer, shall remain in force.

KRS 431.015 Citation for misdemeanor – Failure to appear

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word “ARRESTED” in lieu of the date of court appearance.

KRS 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of cash bail in traffic cases

(1) A guaranteed arrest bond certificate presented by the person whose signature appears thereon shall be accepted in lieu of cash bail in an amount not to exceed two hundred dollars ($200) as a bail bond to guarantee the appearance of such person in any court of this Commonwealth, at the time required by such court, when he is arrested for

violation of any law of this Commonwealth or traffic ordinance of any municipality therein relating to the operation of a motor vehicle. A guaranteed arrest bond certificate so presented as a bail bond is subject to the same forfeiture and enforcement provisions as a bail bond or cash bail, but is not subject to Rules 4.30 and 4.34 of the Kentucky Rules of Criminal Procedure. However:

(a) The violation must have been committed prior to the expiration date shown on the guaranteed arrest bond certificate, and

(b) A guaranteed arrest bond certificate may not be accepted when a person is arrested for violation of KRS 189A.010 or KRS Chapter 281.

(2) As used in this section, "**guaranteed arrest bond certificate**" means a printed card or other certificate issued by an association to any of its members, which is signed by the member and contains a printed statement that such association and a surety company licensed to do business in this Commonwealth:

(a) Guarantee the appearance of the person whose signature appears on the card or certificate, and

(b) Will, in the event of the failure of such person to appear in court at the time set for appearance, pay any fine or forfeiture imposed upon such person in an amount not to exceed two hundred dollars ($200).

KRS 431.025 Notice of intention to arrest – Act of arrest – Force

(1) The person making an arrest shall inform the person about to be arrested of the intention to arrest him, and of the offense for which he is being arrested.

(2) An arrest is made by placing the person being arrested in restraint, or by his submission to the custody of the person making the arrest. The submission shall be in the actual presence of the arrester.

(3) No unnecessary force or violence shall be used in making an arrest.

KRS 431.045 Pursuit in effecting arrest

A peace officer in actual pursuit may continue such pursuit across corporate or county lines for the purpose of making an arrest.

KRS 431.055 Pursuit to recapture escapee

If a person lawfully arrested escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him in any part of the Commonwealth and may be joined in the pursuit and recapture by peace officers in the immediate area or vicinity.

KRS 431.060 Felonies, misdemeanors and violations defined

Offenses are either felonies, misdemeanors, or violations:

(1) Offenses punishable by death or confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies.

(2) Offenses punishable by confinement other than in the penitentiary, whether or not a fine or other penalty may also be assessed, are misdemeanors.

(3) Offenses punishable by a fine only or by any other penalty not cited herein, whether in combination with a fine or not, are violations.

KRS 431.062 Detention in jail prior to trial prohibited for certain offenses – Exceptions

(1) No person shall be detained in jail prior to trial for any offense defined in KRS 431.060, 500.080, or 532.020 as a violation unless:
   (a) He has previously failed to make a court appearance required in connection therewith; or
   (b) Is a fugitive from justice.
(2) This section shall not apply to the offenses listed in KRS 431.015 or 222.202.

KRS 431.064 Pretrial release of person arrested for assault, sexual offense, or violation of protective order – Conditions – Hearing – Victim entitled to copy of conditions of release – Entry of conditions into Law Information Network – Penalty

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of a protective order issued pursuant to KRS 403.740 or 403.750, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:
   (a) Is a threat to the alleged victim or other family or household member; and
   (b) Is reasonably likely to appear in court.
(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1), and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:
   (a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;
   (b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;
   (c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;
   (d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;
   (e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;
   (f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or
   (g) Any combination of the orders set out in paragraphs (a) to (f).
(3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:
   (a) Issue a written order for conditional release; and
   (b) Immediately distribute a copy of the order to pretrial services.
(4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.
(5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.

* * * * * * *

(7) The circuit clerk, or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered

into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.

(8) The information entered under this section shall be accessible to any agency designated by the Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.

(9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

(10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

KRS 431.066 Victim of human trafficking not to be held in a detention center

A victim of human trafficking shall not be held in a detention center, jail, or other secure facility pending trial for an offense arising from the human trafficking situation except where the incarceration is found to be the least restrictive alternative to securing the appearance of that person before the court or the release of the person under any other reasonable condition would be a clear threat to public safety.

KRS 431.420 City police to serve warrant, when

Any warrant issued by District Court for an offense committed within a city shall be served by the police department of that city if the warrant is to be served within the city limits.

UNIFORM TRAFFIC CITATION

KRS 431.450 Uniform citation

(1) The Department of State Police in consultation with the Transportation Cabinet shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform citation.

(2) The citation shall:
   - (a) Be approved by the Supreme Court;
   - (b) Consist of an original document and five (5) copies;
   - (c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and
   - (d) Contain such other information as may be required by the Supreme Court.

(3) The Circuit Court clerk shall maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the Supreme Court to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.

(4) All peace officers in the Commonwealth shall use the uniform citation for all violations of the traffic laws and for all felonies, misdemeanors and violations.

KRS 431.4505 Modification of uniform citation to include alcohol concentration and testing information

The Justice Cabinet shall modify the uniform citation form to include spaces where the peace officer may include:

(1) The alcohol concentration in cases of violation of KRS 189A.010; and

(2) Whether the defendant did take, refused to take, or was unable to take for some reason (to be specified on the citation), the alcohol concentration or drug test or tests specified by the peace officer following an arrest for violation of KRS 189A.010.

KRS 431.452 Prepayment of fines subject to certain conditions

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.

(3) An offense which is designated as subject to prepayment is subject to the following conditions:

   (a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

   (b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;

   (c) Except as provided for in KRS 189.990(25), for any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 *[all dealing with weights and measures]* shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph;

   (d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(4) When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.

(5) The Administrative Office of the Courts, after consultation with the Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Division of Fish and Wildlife, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

KRS 431.455 Prohibitions – Penalty

(1) No peace officer or other person shall invalidate, or attempt to invalidate, destroy or attempt to destroy a record copy of a uniform citation which has been lawfully issued.
(2) No peace officer or other person to whom uniform citations are distributed, prior to issuance to a violator, shall fail to properly account for uniform citations issued to him or to his agency as required by KRS 431.450 and the regulations issued thereunder.
(3) No person required to file reports pursuant to KRS 431.450 and the regulations issued thereunder shall fail to file the reports within the time limits specified.
(4) Any peace officer or other person who violates the provisions of this section shall be guilty of a Class B misdemeanor.

LIMITATIONS ON WHEN ARREST TO BE MADE

Normally, officers are not restricted by time or location in making arrests and may make an arrest at any time, day or night. Exceptions to this rule include:

LIMITATION IN ARREST WARRANT. The arrest warrant could limit the time for arrest (quite rare).

STATUTE OF LIMITATIONS. The government must start prosecution for misdemeanors or violations within one year. (See KRS 500.050) Arrests (1) without a warrant for misdemeanors or violations occurring more than a year before the arrest, or (2) with a warrant for misdemeanors or violations occurring more than a year before the warrant was issued are improper and illegal.

U.S. SENATORS AND REPRESENTATIVES:

U. S. Constitution Article I, Section 6:

The Senators and Representatives . . . in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place. . . .

EDITOR'S NOTE: "Breach of the Peace" is "a violation or disturbance of the public tranquility and order. The offense of breaking or disturbing the public peace by any riotous, forcible, or unlawful proceeding. 'Breach of the Peace' is a generic term and includes all violations of public peace or order and acts tending to a disturbance thereof. One who commits a breach of the peace is guilty of disorderly conduct, but not all disorderly conduct is necessarily a breach of the peace." Black's Law Dictionary *(West Publishing Co)*

MEMBERS OF THE GENERAL ASSEMBLY:

Kentucky Constitution Section 43:

The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance on the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

VOTERS:

Kentucky Constitution Section 149:

Voters, in all cases except treason, felony, breach of surety of the peace, or violation of the election laws, shall be privileged from arrest during their attendance at elections, and while they are going to and returning therefrom.

KENTUCKY NATIONAL GUARDSMEN:

KRS 38.480(2):

(2) No officer, warrant officer, or enlisted man of the Kentucky National Guard or Kentucky active militia shall be arrested, except in case of a felony, while going to, remaining at, or returning from a place where he is ordered to attend for state active duty.

(This material is adapted from materials published by the Federal Law Enforcement Training Center, Brunswick, GA.)

Diplomatic Immunity

Diplomats are representatives of a recognized foreign government who are accredited by that government and are accepted by our government. There are many different types or levels of diplomats including ambassadors, consuls, charge d'affaires, and ministers. Each level of diplomat has its own degree of immunity from civil and/or criminal action. In addition, this immunity may extend beyond that of diplomats themselves and may include the entire family.

Those diplomats who have immunity may not be arrested or prosecuted. If an offense has been committed by a person who claims to have diplomatic immunity, you may detain the person long enough to confirm whether they are in fact protected by diplomatic immunity.

The possession of a diplomatic passport by an individual does not in and of itself indicate that the holder has diplomatic immunity. Verification of diplomatic immunity may be obtained through the United States Department of State's Office of Protocol in Washington, D.C. During normal working hours the State Department may be reached at (202) 647-1664 or (202) 647-1405. After working hours and on weekends, calls should be made to the Diplomatic Security Watch Officer at (202) 647-7277. Send copies of incident reports and citations to (Fax) (202) 895-3613.

Should you find that you have detained diplomats who do have full immunity, you MUST release them.

Any writ or process issued against a person holding or possessing diplomatic immunity is null and void, without regard to whether or not the writ or process is civil or criminal in nature. In fact, any person who knowingly obtains or executes such a writ or process may be liable for a fine and/or imprisonment. The one exception to this rule is the issuance of parking citations and similar traffic related offenses.

The right to operate a motor vehicle, obtain state department diplomatic tags, and utilize a driver's permit in the host nation is not an issue of diplomatic immunity. Officers may issue citations to diplomats but not arrest the operator if the diplomat has immunity. It is also recognized that officers may forbid the further operation of a vehicle by an intoxicated driver, regardless of the immunity involved. While the operator, if immune, cannot be arrested, the public safety issue may restrict the movement of the vehicle until a sober and licensed driver can operate the vehicle.

Persons having diplomatic immunity cannot be required to appear in court as a defendant or as a witness for any reason. In order to have them testify, it is necessary for them to volunteer or to get their government to waive their immunity for that purpose.

It is a Federal crime for any person to strike, wound, imprison or offer violence to the person of a diplomatic officer and an offender is subject to fine and/or imprisonment under Federal law as well as being subject to possible prosecution under applicable state statutes which apply to such criminal conduct.

Any and all illegal or criminal acts perpetrated by diplomats should be reported to the Department of State to take whatever action they deem to be appropriate. They may declare a diplomat to be persona non grata and have that diplomat leave the country.

A foreign embassy or other diplomatic mission is considered to be foreign soil. Therefore we have no right to enter onto that property without the permission of an official at that mission. This holds true even in circumstances where a fire has broken out in the mission itself or where people are shooting from the mission, as occurred in London several years ago.

Notification of Embassy Upon Arrest of Aliens.

Aliens are all persons in the United States who are not citizens. Aliens may be here on a temporary basis, such as those with student visas; others may have permanent status, while others are here illegally. While in this country, aliens are subject to all of our criminal laws.

If you arrest an alien, you should ask if the alien wishes you to notify the appropriate consular or diplomatic officers of the appropriate country. If requested, you should notify them as a matter of courtesy. Note however, that some of our treaty obligations with foreign countries require that their diplomatic officials be notified whenever one of their nationals is arrested in our country. To determine such status, call the Department of State at the telephone numbers given above; and remember to fax them a copy of your report.

KRS CHAPTER 17
PUBLIC SAFETY
(Selected Sections)

SEX OFFENDER REGISTRATION

KRS 17.500 Definitions for KRS 17.500 to 17.580.

As used in KRS 17.500 to 17.580:

* * * * * * * *

(2) "Cabinet" means the Justice Cabinet;

(3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;
2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
3. Sex crime;
4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
5. Human trafficking involving commercial sexual activity as set forth in KRS 529.100;
6. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
7. Use of a minor in a sexual performance, as set forth in KRS 531.310;
8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
9. Unlawful transaction with a minor in the first degree as set forth in subsection (1) (a) of KRS 530.064.
10. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
11. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
12. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;

(4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;

(5) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or
2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510; or

(c) Any sexually violent predator; or

(d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed.

(6) "Registrant information" means the name, including any lawful name change together

with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

(7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;

(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1) (a), 531.310, or 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

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(12) "Victim" has the same meaning as in KRS 421.500.

KRS 17.510 Registration system for adults who have committed sex crimes or crimes against minors -- Persons required to register -- Manner of registration -- Penalties.

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(2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.

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(6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.

(7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that

person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

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(9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.

(10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

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(11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(13) (a) The Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

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KRS 17.520 Period of registration.

(1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time required under this section.
(2) (a) Lifetime registration is required for:
    1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
    2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
    3. Any person convicted of a sex crime:
        a. Who has one (1) or more prior convictions of a felony criminal offense against a victim who is a minor; or
        b. Who has one (1) or more prior sex crime convictions;
    4. Any person who has been convicted of two (2) or more felony criminal offenses against a victim who is a minor;
    5. Any person who has been convicted of:
        a. Rape in the first degree under KRS 510.040; or
        b. Sodomy in the first degree under KRS 510.070; and
    6. Any sexually violent predator.
(3) All other registrants are required to register for twenty (20) years following discharge from confinement or twenty (20) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
(4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements and the remaining period of time for which the registrant shall register are tolled during the reincarceration.
(5) A person who has pled guilty, entered an Alford plea, or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.

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KRS 17.545 Registrant prohibited from residing near school or day care facility – Penalties – Exception

(1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line-of the registrant's place of residence.
(2) For purposes of this section:
    (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and

(b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.

(3) Any person who violates subsection (1) of this section shall be guilty of:
(a) A Class A misdemeanor for a first offense; and
(b) A Class D felony for the second and each subsequent offense.

(4) Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on the effective date of this Act shall move and comply with this section within ninety (90) days of the effective date of this Act, and thereafter, shall be subject to the penalties set forth under subsection (3) of this section.

(5) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

KRS 17.547 Persons immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991:

(1) Law enforcement agencies including the Justice Cabinet;

* * * * * * * *

(5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

KRS 17.549 Making a false statement to a law enforcement officer – Harboring a registrant

(1) A person shall be guilty of making a false statement to a law enforcement official when he or she intentionally misleads any law enforcement official regarding a noncompliant registrant.

(2) A person shall be guilty of harboring when he or she intentionally allows a registrant to reside at his or her residence to avoid registration if the address is not the address the registrant listed as his or her residence address.

(3) For the purposes of this section, law enforcement officials include the Attorney General, elected sheriffs, deputy sheriffs, city police officers, county police officers, state police officers, probation and parole officers, state and federal prosecutors, and investigators employed by any of these officers.

(4) A person who violates this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.

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KRS 202A.011 Definitions for chapter

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

* * * * *

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

* * * * *

(6) "Hospital" means:

i. A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

ii. A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

* * * * *

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

* * * * *

(12) "Qualified mental health professional" means:

i. A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

ii. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

iii. A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

iv. A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from

an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

v. A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

* * * * *

KRS 202A.026 Criteria for involuntary hospitalization

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;
(2) Who can reasonably benefit from treatment; and
(3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

KRS 202A.041 Warrantless arrest and subsequent proceedings

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall take the individual into custody and transport the individual without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a qualified mental health professional. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person's home county by an appropriate means of transportation as provided in KRS 202A.101. If, after evaluation, the qualified mental health professional finds that the person meets the criteria for involuntary hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a qualified mental health professional and implementation of procedures as provided in KRS 202A.028, 202A.031, or 202A.051 for a period not to exceed eighteen (18) hours.
(2) If, after the evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge.

KRS 202A.241 Use of least restrictive level of restraint – Guidelines for restrained person's need for privacy and ability to use telephone

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for Health Services shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

KRS 202A.251 Prohibition against detention in jail without criminal charges pending - Criminal charges not to be placed to avoid transportation

No person held under the provisions of this chapter shall be detained in jail unless criminal charges are also pending. No peace officer or any other person shall place criminal charges against a person who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the person to a hospital or psychiatric facility.

KRS 202A.991 Penalties

(1) Any person who willfully causes or conspires with or assists another in causing:
   (a) The unwarranted hospitalization of any individual under the provisions of this chapter; or
   (b) The denial of any individual of any of the rights accorded to him under the provisions of this chapter;

   shall be guilty of a Class A misdemeanor.

(2) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a Class B misdemeanor.

KRS CHAPTER 209

PROTECTION OF ADULTS

(Selected sections)

KRS 209.020 Definitions for chapter

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

(1) "Secretary" means the secretary of the Cabinet for Families and Children;

(2) "Cabinet" means the Cabinet for Families and Children;

(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;

(4) "Adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or

(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and

(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.

KRS 209.030 Rules and regulations – Reports - Cabinet

* * * * *

(3) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(4) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(5) Upon receipt of the report, the cabinet shall take the following action as soon as practical:
   (a) Notify the appropriate law enforcement agency;
   (b) Initiate an investigation of the complaint; and
   (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(7) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(8) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(9) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

KRS 209.990 Penalties

(1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.
(2) Any caretaker who knowingly abuses or neglects an adult is guilty of a Class C felony.
(3) Any caretaker who wantonly abuses or neglects an adult is guilty of a Class D felony.
(4) Any caretaker who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.
(5) Any caretaker who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class C felony.
(6) Any caretaker who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class D felony.
(7) Any caretaker who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.
(8) Any person who knowingly and willfully financially exploits an adult within the meaning of this chapter is guilty of a Class C felony.

DOMESTIC VIOLENCE AND ABUSE

KRS 403.715 Interpretation of KRS 403.715 to 403.785 by court

KRS 403.715 to 403.785 shall be interpreted by the courts of the Commonwealth of Kentucky to effectuate the following express legislative purposes:

(1) To allow persons who are victims of domestic violence and abuse to obtain effective, short-term protection against further violence and abuse in order that their lives will be as secure and as uninterrupted as possible;

(2) To expand the ability of law enforcement officers to effectively respond to situations involving domestic violence and abuse so as to prevent further such incidents and to provide assistance to the victims;

(3) To provide peace officers with the authority to immediately apprehend and charge for violation of a protective order any person whom the officer has probable cause to believe has violated an order of protection issued under KRS 403.740 or 403.750 and to provide courts with the authority to conduct contempt of court proceedings for these violations;

(4) To provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the incidence and causes of such violence and abuse; and

(5) Nothing in KRS 403.715 to 403.785 shall be interpreted to repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209 or 620.

KRS 403.720 Definitions for KRS 403.715 to 403.785

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and

(3) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

EDITOR'S NOTE: In Ireland v. Davis, 957 S.W.2d 310 (Ky App 1997), the Kentucky Court of Appeals ruled that "KRS 403.715 - .785 affords protection to same-sex couples just as they do to the others enumerated therein." The court also stated that "'couples' . . . refers to two people engaged in an intimate relationship and would not include roommates." Although this latter statement is "mere dicta", the court thus gave indication as to how it might rule in a case involving roommates not in an intimate (i.e., sexual) relationship. The court would probably rule the same way in a case involving KRS 431.005.

KRS 403.725 Petition, who may file – Protective orders

(1) Any family member or member of an unmarried couple who is a resident of this state or has fled to this state to escape domestic violence and abuse may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse, the petition may be filed and proceedings held in the District Court in the county of his usual residence or in the District Court in the county of current residence. Any family member or member of an unmarried couple who files a petition for an emergency protective order in District or Circuit Court shall make known to the court any custody or divorce actions, involving both the petitioner and the respondent, that are pending in any Circuit Court in the Commonwealth. The petition shall also include the name of the court where filed.

(2) Any family member or any member of an unmarried couple, as those terms are defined in KRS 403.720, may file for and receive protection under KRS 403.715 to 403.785, notwithstanding the existence of or intent to file an action in the Circuit Court by either party under the provisions of this chapter.

(3) A petition filed pursuant to subsection (1) of this section may be filed by the family member or member of an unmarried couple seeking relief or by an adult family member or member of an unmarried couple on behalf of a minor family member.

(4) If a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue a protective order upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to 403.785.

(5) No Circuit or District Court shall require mediation, conciliation, or counseling prior to or as a condition of issuing an emergency protective order or domestic violence order.

(6) When the elected, appointed, or special judge of the district is absent from the district, otherwise unavailable, or unable to act, any Circuit Judge shall have the authority to issue an emergency protective order pursuant to KRS 403.730 to 403.785. If a Circuit Judge issues an emergency protective order, except as otherwise provided in this section, that judge shall conduct the hearing as required by KRS 403.745 and any order issued shall be enforced as provided in this chapter.

(7) During any hearing in Circuit Court on dissolution of marriage, child custody, or visitation, at which both parties are present or represented by counsel, the Circuit Judge shall have the authority to issue a protective order pursuant to KRS 403.730 to 403.785.

(8) Following the issuance of a protective order under this section, if the judge who issued the order is absent from the district, otherwise unavailable, or unable to conduct proceedings regarding the enforcement, violation, or modification of the order within a reasonable time, the proceedings shall be conducted by any District or Circuit Judge.

KRS 403.730 Petition – Contents – Form – Filing fee

(1) A petition filed pursuant to KRS 403.725 shall be verified and shall contain:
   (a) The name, age, address, occupation, and residence of the petitioner;
   (b) The name, age, address, occupation, and residence of the person or persons who have engaged in the alleged act or acts of domestic violence and abuse;
   (c) The facts and circumstances which constituted the alleged domestic violence and abuse;
   (d) The date and place of the marriage of the parties, if applicable; and
   (e) The names, ages, and addresses of the parties' minor children, if applicable.

(2) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief under KRS 403.715 to 403.785 by the circuit

clerk or to another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, and county or Commonwealth's attorneys. All petitions requested, completed, and signed by persons seeking protection under the provisions of KRS 403.715 to 403.785 shall be accepted and filed.

(3) Notwithstanding any provision of law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under KRS 403.725.

KRS 403.735 Review by court – Access to emergency protective orders – Local protocol in domestic violence matters – Time at which orders of protection take effect

(1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after review of the petition and determining that domestic violence and abuse exists, without a jury, shall utilize one (1) of the alternatives provided for in KRS 403.740 or 403.745.

(2) A court may issue mutual protective orders only if a separate petition is filed by the respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide orders, sufficiently specific to apprise any peace officer as to which party has violated the order if there is probable cause to believe a violation of the order has occurred.

(3) (a) All courts shall provide twenty-four (24) hour access to emergency protective orders.

(b) Each court shall submit written procedures for twenty-four (24) hour accessibility to be reviewed and approved by the Kentucky Supreme Court.

(c) Each court shall establish the local protocol in domestic violence matters in which there may be joint jurisdiction between District and Circuit Court. Each court shall submit the written procedures to be reviewed and approved by the Kentucky Supreme Court.

(d) All amendments or revisions to the local procedures required pursuant to this section shall be submitted to the Kentucky Supreme Court for review and approval.

(4) If an emergency protective order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

(5) An order of protection issued under the provisions of KRS 403.715 to 403.785 shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

KRS 403.740 Emergency protective orders

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

(a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restraining the adverse party from committing further acts of domestic violence and abuse;

(c) Restraining the adverse party from disposing of or damaging any of the property of the parties;
(d) Directing the adverse party to vacate the residence shared by the parties to the action;
(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, grant temporary custody; or
(f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.

(3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

KRS 403.750 Court orders – Amendment

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:
(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;
(b) Restrain the adverse party from committing further acts of domestic violence and abuse;
(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;
(d) Direct the adverse party to vacate the residence shared by the parties to the action;
(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, award temporary custody;
(f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;
(g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or
(h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.

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(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

KRS 403.7521 Foreign protective orders – Filing – Affidavit certifying validity – Uncertified orders

(1) In KRS 403.715 to 403.785, "foreign protective order" means any judgment, decree, or order of protection issued by a court of a state of the United States or of any other court which is entitled to full faith and credit in this state pursuant to 18 U.S.C. sec. 2265.

(2) A copy of any foreign protective order entitled to full faith and credit in this state in accordance with the Act of Congress or the statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an emergency protective order issued by a court of this state.

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KRS 403.7527 Enforcement of foreign protective orders

A court of this state shall enforce a foreign protective order authenticated pursuant to KRS 403.737, 403.7521, and 403.7524, including an order which grants relief to a person who is not eligible for a protective order in this state. A court of this state shall enforce all provisions of a foreign protective order including provisions which grant relief that is not available in this state. Any foreign protective order that has been properly authenticated and that comes within the purview of KRS 403.7524 shall be effective for the period of time fixed by the issuing court.

KRS 403.7529 Presumption of validity – Enforcement by peace officers

(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.

(2) All peace officers shall treat a foreign protective order as a legal document, valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an emergency protective order or domestic violence order issued in Kentucky.

(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.

(4) In the event that the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.

KRS 403.7535 Changes in orders – Notification

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(3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section unless proper notice has been given in accordance with the provisions of this section.

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KRS 403.755 Enforcement by law enforcement agency

(1) Upon the issuance of an order authorized by KRS 403.740 or 403.750, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
(2) Orders issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, shall be enforced in any county of the Commonwealth. Officers acting in good faith shall be immune from criminal and civil liability.

KRS 403.760 Contempt of court

(1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice of the order to the respondent, shall constitute contempt of court.
(2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, and after service on the respondent or notice to the respondent as provided under KRS 403.735, shall arrest the respondent without a warrant for violation of a protective order pursuant to KRS 500.020, 403.715, and 403.740. Following a hearing the District Court in the county in which the peace officer made the arrest for the violation may punish the violation of a protective order as a violation of a protective order.
(3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.
(4) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of a protective order.
(5) Civil proceedings and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once either proceeding has been initiated the other shall not be undertaken regardless of the outcome of the original proceeding.

KRS 403.763 Criminal penalty for violation of protective order

(1) A person is guilty of a violation of a protective order when he intentionally violates the provisions of an order issued pursuant to KRS 403.715 to 403.785 with which he has been served or has been given notice.
(2) Violation of a protective order is a Class A misdemeanor.

KRS 403.770 Nonpublication of petitioner's and minor children's addresses – Forwarding of order to Law Information Network of Kentucky and other agencies

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(3) Each agency designated for entry of summonses and orders issued pursuant to the provisions of KRS 403.740, 403.745, or 403.750, or foreign protective order authenticated pursuant to KRS 403.737, 403.7521, 403.7524, 403.7527, 403.7529, 403.7531, or 403.7535, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.

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KRS 403.775 Effect of petitioner's leaving residence

A person's right to apply for relief under the provisions of KRS 403.725 shall not be affected by that person leaving the residence of the parties to avoid domestic violence and abuse.

KRS 403.783 Model law enforcement domestic violence policy and procedures manual – Distribution – Agency submission to Justice Cabinet – Assistance by Cabinet when policy inadequate

(1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims' services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.

(3) No later than January 1 after July 15, 1996, and July 31 of every even-numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.

(4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.

(5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

KRS 403.785 Duties of law enforcement agencies

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Families and Children, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:
   (a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;
   (b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and
   (c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

INTRODUCTORY MATTERS

(Selected Sections)

KRS 600.010 Title and intent of KRS Chapters 600 to 645

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

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KRS 600.020 Definitions for KRS Chapters 600 to 645

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:
   (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
   (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
   (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);
   (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
   (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
   (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
   (g) Abandons or exploits the child;
   (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or
   (i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
   (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
   (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
   (c) The parent has sexually abused the child and has refused available treatment;
   (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
   (e) The parent has caused the child serious physical injury;

(3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(4) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

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(7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided;

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(14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(17) "Deadly weapon" has the same meaning as it does in KRS 500.080;

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(19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;

(21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

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(23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(27) "**Habitual runaway**" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(28) "**Habitual truant**" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150 three (3) or more times during a one (1) year period;

(29) "**Hospital**" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

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(32) "**Intentionally**" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(33) "**Intermittent holding facility**" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

(34) "**Juvenile holding facility**" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(35) "**Least restrictive alternative**" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;

(36) "**Motor vehicle offense**" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

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(38) "**Needs of the child**" means necessary food, clothing, health, shelter, and education;

(39) "**Nonoffender**" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;

(40) "**Nonsecure facility**" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

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(42) "**Parent**" means the biological or adoptive mother or father of a child;

(43) "**Person exercising custodial control or supervision**" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(44) "**Petition**" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(45) "**Physical injury**" means substantial physical pain or any impairment of physical condition;

(46) "**Physically secure facility**" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

NOTE: ***Bold italic*** terms are defined in KRS 600.020

(47) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

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(50) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(51) "School personnel" means those certified persons under the supervision of the local public or private education agency;

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(53) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(54) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(55) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(56) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(57) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(58) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(59) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual runaway;
3. Habitual truant;
4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
5. Alcohol offenses as provided in KRS 244.085.

(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of;

(60) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(61) "**Valid court order**" means a court order issued by a judge to a child alleged or found to be a status offender:
   (a) Who was brought before the court and made subject to the order;
   (b) Whose future conduct was regulated by the order;
   (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
   (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.

(62) "**Violation**" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(63) "**Youth alternative center**" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(64) "**Youthful offender**" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

KRS CHAPTER 605

ADMINISTRATIVE MATTERS

(Selected Sections)

KRS 605.080 Transportation of children

(1) Any ***child*** ordered to be transported, by a committing or sentencing court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

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(3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court, unless accompanied by an attendant of the same gender, unless that child, when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, is transported by a parent, grandparent, or adult brother or sister.

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KRS CHAPTER 610

PROCEDURAL MATTERS

(Selected Sections)

KRS 610.010 District Court jurisdiction of juvenile matters

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any ***child*** living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a ***motor vehicle offense*** shall be treated as an adult and shall have

NOTE: ***Bold italic*** terms are defined in KRS 600.020

the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:
   (a) Is ***beyond the control of the school*** or ***beyond the control of parents*** as defined in KRS 600.020;
   (b) Is an ***habitual truant*** from school;
   (c) Is an ***habitual runaway*** from his or her ***parent*** or other ***person exercising custodial control or supervision*** of the child;
   (d) Is ***dependent***, ***neglected***, or ***abused***; or
   (e) Has committed an alcohol offense in violation of KRS 244.085;
   (f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or
   (g) Is mentally ill.

(3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.

(4) Actions brought under subsection (2)(a), (b), (c), (e) and (f) of this section shall be considered to be status offense actions.

(5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.

(6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.

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(10) The court of each county wherein a public offense, as defined in subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.

(11) Nothing in this chapter shall prevent the Court from holding a child in contempt of court to enforce valid court orders previously issued by the court, subject to the requirements contained in Sections 5 and 10 of this Act.

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(14) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

KRS 610.190 Arrest laws applicable to child taken into custody – Applicability of bail laws – Custody by person other than peace officer

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest until the court has made the decision to try the child in Circuit or District Court as an adult. The law relating to bail shall not be applicable to children detained in accordance with this chapter unless the child is subject to being tried in Circuit or District Court as an adult.

(2) When a child is taken into custody by a person other than a peace officer, such person shall as soon as possible place the child in the custody of a peace officer.

KRS 610.200 Duties of peace officer

(1) When a peace officer has *take*n or received a child *into custody* on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not available, then a relative, guardian, *person exercising custodial control or supervision* of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for taking the child into custody.

(2) Unless the child is subject to trial as an adult or unless the nature of the offense or other circumstances are such as to indicate the necessity of retaining the child in custody, the officer shall release the child to the custody of his parent or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if the parent is not available, then a relative, guardian, person exercising custodial control or supervision or other responsible person or agency approved by the court upon the written promise, signed by such person or agency, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted forthwith to the court or *court-designated worker* and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release.

(3) If the person fails to produce the child as agreed or upon notice from the court, a summons, warrant, or custody order may be issued for the apprehension of the person or of the child, or both.

(4) The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

(5) Unless the child is subject to trial as an adult, if the child is not released, the peace officer shall contact the court-designated worker who may:

   (a) Release the child to his parents;

   (b) Release the child to such other persons or organizations as are authorized by law;

   (c) Release the child to either of the above subject to stated conditions; or

   (d) Except as provided in subsection (6) of this section, authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a *secure juvenile detention facility*, a *juvenile holding facility*, or a *nonsecure facility*. If the child is retained in custody, the court-designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

(6) (a) Except as provided in paragraph (b) of this subsection, no child ten (10) years of age or under shall be taken to or placed in a juvenile detention facility.
(b) Any child ten (10) years of age or under who has been charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be taken to or placed in a secure juvenile detention facility or youth alternative center when there is no available less restrictive alternative.

KRS 610.220 Permitted purposes for holding child in custody – Time limitation – Extension separation from adult prisoners

(1) Except as otherwise provided by statute, if an officer takes or receives a child into custody, the child may be held at a police station, ***secure juvenile detention facility***, ***juvenile holding facility***, ***intermittent holding facility***, ***youth alternative center***, a ***nonsecure facility***, or, as necessary, in a ***hospital*** or clinic for the following purposes:
(a) Identification and booking;
(b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;
(c) Photographing;
(d) Fingerprinting;
(e) Physical examinations, including examinations for evidence;
(f) Evidence collection, including scientific tests;
(g) Records checks;
(h) Determining whether the child is subject to trial as an adult; and
(i) Other inquiries of a preliminary nature.
(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or ***court-designated worker*** pursuant to KRS 610.200(5)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.
(3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location, and shall not be handcuffed to or otherwise securely attached to any stationary object.

KRS 610.255 Peace officer may take child to court approved center – Release of child without formal charges filed

The peace officer may divert the child from the formal court process and take the child to a court-approved center offering voluntary services to children and release the child without formal charges being filed, if:
(1) The offense the child has allegedly committed under the provisions of KRS 610.010(1) is not a felony offense;
(2) The peace officer has received the permission of the parent or other responsible adult; and
(3) The peace officer has followed guidelines which the court has established for such release.

KRS 610.265 Detention of children in specified facilities – Time frame for holding detention hearing

(1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a

NOTE: ***Bold italic*** terms are defined in KRS 600.020

nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays pending a detention hearing.

* * * * *

KRS 610.266 Restriction on placement of nonoffender and curfew

The following persons shall not be detained in a secure juvenile detention facility or a juvenile holding facility:

(1) A nonoffender; or

(2) Any child charged with a violation of a statute or local ordinance pertaining to curfew.

KRS 610.300 Evidence in public offense investigations

(1) Physical evidence shall be obtained and utilized in the investigation of public offenses involving children in the same manner as it is obtained and utilized in the investigation of public offenses involving adults.

(2) Except for fingerprint records, all records and physical evidence so obtained shall be surrendered to the court upon motion for good cause shown. All records, including fingerprint records, shall be subject to expungement in the manner provided in KRS 431.076 for circumstances specified therein.

(3) The court shall, upon receipt of physical evidence return any evidence which is not contraband and is not needed for further prosecution, to its lawful owner. The fingerprint cards created pursuant to KRS Chapters 600 to 645 shall be transferred pursuant to KRS 17.110.

KRS 610.320 Juvenile record and juvenile docket – Disclosure of information in court and police records concerning juvenile prohibited – Exceptions – Use of juvenile records in court

* * * * *

(3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except that a separate public record shall be kept by the clerk of the court which shall be accessible to the public for court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is fourteen (14) years of age or older at the time of the commission of the offense, and who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed.

* * * * *

(6) This section shall not relieve the probation officer or peace officer from divulging such

facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.

* * * * *

KRS 610.340 Confidentiality of juvenile court records

(1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.

* * * * *

(2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.

(3) The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010(24), who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.

* * * * *

(5) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.

(6) No person, including school personnel, shall disclose any confidential record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.

(7) No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

(8) No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.

(9) No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.

(10) As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

KRS 610.342 Full access to all records relating to a child for that child's attorney – Enforcement by court order

(1) Any statute to the contrary notwithstanding, an attorney representing a child in any proceeding under KRS Chapters 600 to 645 or in any adult criminal proceeding shall have full access to all records, including juvenile records, held by law enforcement, courts, social work agencies, or any other record, public or private, relating to that child which the attorney believes is necessary to the representation of that child.

(2) All courts shall enforce the provisions of subsection (1) of this section through appropriate orders, upon request of an attorney representing a child in any proceeding specified in subsection (1) of this section.

KRS 610.990 Penalty

Any person who intentionally violates any of the provisions of this chapter shall be guilty of a Class B misdemeanor.

KRS CHAPTER 620
DEPENDENCY, NEGLECT, AND ABUSE
(Selected Sections)

KRS 620.020 Definitions for chapter

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

* * * * *

(4) "**Children's advocacy center**" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews and medical examinations, and by promoting the coordination of services for children alleged to have been abused; and that provides, directly or by formalized agreements, services that include, but are not limited to, forensic interviews, medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;

(5) "**Foster care**" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:
   (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and
   (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;

* * * * * * *

(7) "**Multidisciplinary teams**" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;

* * * * * * *

(10) "**Reasonable efforts**" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;

* * * * * * * *

KRS 620.030 Duty to report dependency, neglect or abuse

Penalty: KRS 620.990(1)

NOTE: ***Bold italic*** terms are defined in KRS 600.020

(1) Any person who knows or has reasonable cause to believe that a child is ***dependent, neglected or abused*** shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
   (a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;
   (b) The child's age;
   (c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;
   (d) The name and address of the person allegedly responsible for the abuse or neglect; and
   (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

(5) Any person who intentionally violates the provisions of this section shall be guilty of a:
   (a) Class B misdemeanor for the first offense;
   (b) Class A misdemeanor for the second offense; and
   (c) Class D felony for each subsequent offense.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

KRS 620.040 Duties of prosecutor, police, and cabinet – Prohibition as to school personnel – Multidisciplinary teams

(1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action that has been taken on the investigation.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.

(3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.

(4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the

NOTE: ***Bold italic*** terms are defined in KRS 600.020

appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.

(7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but shall not be limited to, social service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

* * * * * *

(f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

KRS 620.050 Immunity for good faith actions or reports – Investigations – Confidentiality of reports

Penalty: KRS 620.990(1)

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team,

that have a legitimate interest in the case;

(e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;

(g) Employees or designated agents of a children's advocacy center; or

(h) Those persons so authorized by court order.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and
3. The court and those persons so authorized by a court order.

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(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

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(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.

(12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and
2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year concerning an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

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NOTE: ***Bold italic*** terms are defined in KRS 600.020

KRS 620.095 Restriction on placement of nonoffender

A nonoffender, as defined in KRS 600.020(39), shall not be place in secure or nonsecure detention.

KRS 620.990 Penalty

(1) Except as otherwise provided in this chapter, any person intentionally violating the provisions of this chapter shall be guilty of a Class B misdemeanor.
(2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.

KRS CHAPTER 630
STATUS OFFENDERS
(Selected Sections)

KRS 630.020 Jurisdiction of court

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:
(1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;
(2) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
(3) Has been an habitual truant from school;
(4) Has committed a tobacco offense under KRS 438.305 to 438.340; or
(5) Has committed an alcohol offense under KRS 244.085.

KRS 630.030 Circumstances under which child may be taken into custody by peace officer

Under the provisions of this chapter a child may be taken into custody by any peace officer:
(1) Pursuant to an order of the court for failure to appear before the court for a previous status offense; or
(2) If there are reasonable grounds to believe that the child has been an habitual runaway from his parent or person exercising custodial control or supervision of the child.

KRS 630.040 Duties of person taking child into custody

Any person taking a child into custody, with all reasonable speed, shall in this sequence:
(1) Deliver the child suffering from a physical condition or illness which requires prompt medical treatment to a medical facility or physician. Children suspected of having a mental or emotional illness shall be evaluated in accordance with the provisions of KRS Chapter 645;
(2) Contact a court designated worker who shall have the responsibility for determining appropriate placement pursuant to KRS 610.200(5);
(3) If the court designated worker determines that the placements designated in KRS 610.200(5) and subsection (1) of this section have been exhausted or are not appropriate, a child may be delivered to a secure juvenile detention facility, a juvenile

holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the detention hearing;

(4) When the child has not been released to his parents or person exercising custodial control or supervision, the person taking the child into custody shall make a reasonable effort promptly to give oral notice to the parent or person exercising custodial control or supervision of the child;

(5) In all instances the peace officer taking a child into custody shall provide a written statement to the court designated worker of the reasons for taking the child into custody;

(6) If the child is placed in an emergency shelter or medical facility, during the adjudication and disposition of his case, the court may order his parents to be responsible for the expense of his care; and

(7) The peace officer taking the child into custody shall within three (3) hours of taking a child into custody file a complaint with the court, stating the basis for taking the child into custody and the reason why the child was not released to the parent or other adult exercising custodial control or supervision of the child, relative or other responsible adult, a court designated agency, an emergency shelter or medical facility. Pending further disposition of the case, the court or the court designated worker may release the child to the custody of any responsible adult who can provide adequate care and supervision.

KRS 630.990 Penalty

Any person who intentionally violates any provision of this chapter shall be guilty of a Class B misdemeanor.

EDITOR'S NOTE: KRS Chapters 635 (Public Offenders) and 640 (Youthful Offenders) relate primarily to court matters generally outside the control or influence of the ordinary law enforcement officer and have been omitted to conserve space.

KRS CHAPTER 635
PUBLIC OFFENDERS

KRS CHAPTER 640
YOUTHFUL OFFENDERS

KRS CHAPTER 645
MENTAL HEALTH ACT
(Selected Sections)

KRS 645.020 Definitions for chapter

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to self or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to self or others, as evidenced by recent threats or overt acts, including acts by which the child deprives self or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to self, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

NOTE: ***Bold italic*** terms are defined in KRS 600.020

(3) "**Hospital**" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "**Least restrictive alternative**" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on the child's prior outpatient treatment, that the child will benefit from outpatient treatment;

(5) "**Mental health facility**" means a residential or nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavioral problems;

(6) "**Mental health group home**" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of a residential treatment facility or a hospital;

(7) "**Mental health professional**" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

(c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

(h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or

(i) A fee-based pastoral counselor certified under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services; and

(8) "**Mentally ill child**" means that considering the child's age and development, the child has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of the child's affairs and social relations, the child's behavior is maladaptive or the child exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

KRS 645.120 Emergency hospitalization

(1) If, as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, a peace officer or any interested person may either take the child to a hospital, mental health facility, or another less restrictive alternative or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may place a child up to twenty-four (24) hours, excluding weekends and holidays, in a hospital or mental health facility or another less restrictive alternative. The peace officer shall notify the court designated worker of the child's placement. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital. No child held under this section shall be held in a secure juvenile detention facility or juvenile holding facility unless a status offense action or public offense action is also pending.

(2) On the basis of a prompt examination and any other available information concerning a child who is present at or presented at a hospital, an authorized staff physician shall determine within twenty-four (24) hours if the child needs immediate hospitalization after which the child shall be released within seventy-two (72) hours unless the child is held pursuant to other provisions of this chapter.

   (a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

   (b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, the physician shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

   (c) If the authorized staff physician determines the child does not need immediate hospitalization, the physician shall release the child to a parent, person exercising custodial control or supervision, or an agency having custody of the child and make whatever recommendations or referrals the physician deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within twenty-four (24) hours of the filing, exclusive of weekends and holidays, the court shall on an ex parte basis, which may be by telephone:

   (a) Deny the petition; or

   (b) Issue an order authorizing a peace officer to transport the child to a designated hospital or mental health facility for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. If the child is committed to the cabinet or will be treated by the cabinet, the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the child to a hospital or mental health facility. The cabinet shall pay the transportation costs of the child and the official transporting the child, both to and from the designated hospital or

NOTE: ***Bold italic*** terms are defined in KRS 600.020

mental health facility, in accordance with an administrative regulation promulgated under KRS Chapter 13A. If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization, the child shall be released immediately and transported back to the child's home county by an appropriate means of transportation.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

KRS 645.280 Place where child to be held

(1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility or juvenile holding facility unless a status offense action or public offense action is also pending. No peace officer or any other person shall bring a status offense action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive alternative.

(2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child has committed a status offense or public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.

KRS 645.990 Penalty

Any person who intentionally causes the unwarranted hospitalization of any individual under this chapter or the denial to any individual of any of the rights accorded to him under this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

NOTE: ***Bold italic*** terms are defined in KRS 600.020

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KRS CHAPTER 186
LICENSING OF MOTOR VEHICLES, OPERATORS, AND TRAILERS
(Selected Sections)

GENERAL PROVISIONS

KRS 186.010 Definitions for KRS 186.010 to 186.640

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(2) **"Highway"** means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.

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(4) **"Motor vehicle"** means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section.

(5) **"Moped"** means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(6) **"Operator"** means any person in actual control of a motor vehicle upon a highway.

(7) (a) **"Owner"** means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.

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(8) (a) **"Vehicle,"** as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) **"Dealer"** means any person engaging in the business of buying or selling motor vehicles.

(11) **"Commercial vehicles"** means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers

(including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.

(12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include, but not be limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.

* * * * *

(14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.

(15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more that three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

MOTOR VEHICLE LICENSES

KRS 186.020 Registration requirement – Application for registration – Application and other documents to be sent to Transportation Cabinet – Renewal by mail

Penalty: KRS 186.990(1)

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration . . . , except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within fifteen (15) days. The bill of sale or assigned title must be in the motor vehicle during this fifteen (15) day period. . . .

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KRS 186.070 Registration of manufacturers and dealers – Dealer's plates and stickers – Names of drivers authorized to use dealer's plates to be available to law enforcement agencies – Revocation of licenses – Appeal

Penalty: KRS 186.990(9)

(1) (a) Every . . . dealer in . . . motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office, sub-agent, or agency is located . . . .

* * * * *

(c) A motor vehicle bearing dealer's plates may be used on the highways only by the following people:

1. A licensed dealer, bona fide salesman, or employee of the dealer;
2. A . . . dealer licensed pursuant to the laws of this state transporting a motor vehicle to his place of retail business from a manufacturer or wholesale dealer in motor vehicles; and

3. A bona fide customer of a licensed dealer, or the customer's employees when a motor vehicle is being demonstrated. This provision shall be limited to one (1) trip or demonstration to the same prospective customer.

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(e) As used in this section, "bona fide salesman or employee" means a licensed salesman, or an employee, who is actively engaged in and devotes a substantial part of his time to the conduct of the dealer business.

(f) A vehicle bearing a dealer plate, except when the vehicle is being transported to a dealer's place of business from a manufacturer, shall have, in the case of a new motor vehicle, a "monroney" sticker attached to the vehicle, or, in the case of a used motor vehicle, a Federal Trade Commission buyer's guide sticker attached to the vehicle.

(2) (a) * * * * * *

(b) The names of each dealer and each bona fide salesman and employee shall be entered by the clerk into the AVIS where it will be readily available to law enforcement agencies. . . . .;

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KRS 186.072 Commercial motor vehicle temporary registration placard – Application process – Uses – Record of use – Activation

Penalty: KRS 186.990(2)

(1) For the purposes of this section, “motor truck” and “truck tractor” shall have the same meaning as established in KRS 189.010.

(2) Any manufacturer, dealer, or distributor engaged in the business of manufacturing, selling, or customizing truck tractors or motor trucks may obtain a commercial motor vehicle temporary registration placard from the Department of Vehicle Regulation. The fee for each placard shall be one hundred dollars ($100) per placard and each applicant shall specify the number of placards to be issued. A company may make additional requests for temporary placards at any time it exhausts the placards supplied by the department.

(3) The commissioner shall prescribe the application form for the commercial vehicle temporary registration placard, require each applicant to submit proof of eligibility to receive the placard, and certify that the applicant has need of the placard in the ordinary course of business, and may request other information as part of the application process.

(4) The commercial vehicle temporary registration placard shall be placed on a truck tractor or motor truck in the same manner as a regular license plate. The temporary placard shall be issued if a permanent registration issued pursuant to KRS 186.050 or temporary registration issued pursuant to KRS 186A.100 cannot be obtained.

(5) The use of a commercial vehicle temporary placard shall be limited to the following activities:

(a) A demonstration of the truck tractor or motor truck to a prospective purchaser;

(b) The transportation of the truck tractor or motor truck to a facility engaged in the customizing of a motor vehicle for eventual use on the highway;

(c) The transportation of the truck tractor or motor truck to a trade show or other activity designed to promote the selling of the product; or

(d) The transportation of the truck tractor or motor truck by a purchaser to a location outside Kentucky, provided that the truck tractor or motor truck is not eligible to be registered in Kentucky.

(6) Each manufacturer, dealer, or distributor receiving the temporary placards shall maintain a record of use for each temporary placard to include the following:
   (a) The make and model of each motor vehicle and the vehicle identification number or other identification number of each vehicle on which a placard is used;
   (b) The date the placard was issued and the registration number of the placard;
   (c) The address of the final destination and reason for movement of the truck tractor or motor truck receiving the temporary placard; and
   (d) A record of insurance coverage or a binder for insurance coverage issued to the recipient of the temporary placard.

(7) A commercial vehicle temporary placard shall not be activated until it is placed upon the truck tractor or motor truck and used in a manner as authorized by subsection (5) of this section. The commercial vehicle temporary placard shall expire thirty (30) days after it is activated and placed in use on a truck tractor or motor truck and shall be designed in a manner that an expiration date shall be noted clearly on the face of the placard.

KRS 186.073 Commercial trailer temporary registration placard – Application process – Uses – Record of use – Activation

Penalty: KRS 186.990(1)

(1) For the purposes of this section, "semitrailer" and "trailer" shall have the same meaning as established in KRS 186.650.

(2) Any manufacturer, dealer, or distributor engaged in the business of manufacturing, selling, or customizing commercial semitrailers or commercial trailers may obtain a commercial trailer temporary registration placard from the Department of Vehicle Regulation. The fee for each placard shall be five dollars ($5) per placard and each applicant shall specify the number of placards to be issued. A company may make additional requests for temporary placards at any time it exhausts the placards supplied by the department.

(3) The commissioner shall prescribe the application form for the commercial trailer temporary registration placard, require each applicant to submit proof of eligibility to receive the placard, and certify that the applicant has need of the placard in the ordinary course of business, and may request other information as part of the application process.

(4) The commercial trailer temporary registration placard shall be placed on a semitrailer or trailer in the same manner as a regular trailer license plate. The temporary placard shall be issued if a permanent registration issued pursuant to KRS 186.655 cannot be obtained.

(5) The use of a commercial trailer temporary registration placard shall be limited to the following activities:
   (a) A demonstration of the semitrailer or trailer to a prospective purchaser;
   (b) The transportation of the semitrailer or trailer to a trade show or other activity designed to promote the selling of the product;
   (c) The transportation of the semitrailer or trailer to a trade show or other activity designed to promote the selling of the product;
   (d) The transportation of the semitrailer or trailer by a purchaser to a location outside Kentucky, provided that the semitrailer or trailer is not eligible to be registered in Kentucky; or
   (e) Transportation of a trailer or semitrailer from the manufacturer to a place of business in Kentucky in order to obtain a permanent registration issued pursuant to KRS 186.655.

(6) Each manufacturer, dealer, or distributor receiving the temporary placards shall maintain a record of use for each temporary placard to include the following:
   (a) The make and model of each semitrailer or trailer and the vehicle identification number or other identification number of each vehicle on which a placard is used;
   (b) The date the placard was issued and the registration number of the placard; and
   (c) The address of the final destination and reason for movement of the semitrailer or trailer receiving the temporary placard.

(7) A commercial trailer temporary registration placard shall not be activated until it is placed upon the semitrailer or trailer and used in a manner as authorized by subsection (5) of this section. The commercial trailer temporary registration placard shall expire thirty (30) days after it is activated and placed in use on a semitrailer or trailer and shall be designed in a manner that an expiration date shall be noted clearly on the face of the placard.

KRS 186.140 Reciprocity for nonresidents

Penalty: KRS 186.990(1)

Except as provided in KRS 281.835 and 281.836, a nonresident owner, from a state not requiring registration of nonresidents temporarily in it, who has complied with the laws of the state of his residence relating to registration of motor vehicles, and who displays the requisite plates and holds the requisite receipt or certificate of registration as required by his resident state, shall be exempt from registration in this state for the same period of time as is granted to nonresident owners by the laws and regulations of his state. Registration in any other state shall not relieve any owner resident in this state from the penalties provided in KRS 186.990.

KRS 186.150 Residents not to use license of other states

Penalty: KRS 186.990(9)

(1) No resident operating a motor vehicle on the highways, shall secure or license the motor vehicle in any state other than Kentucky unless so licensed in conformity with a motor vehicle reciprocal arrangement or under the international registration plan.

(2) The use of a license of any state other than Kentucky by a resident of this state on his car driven over Kentucky highways shall be prima facie evidence of guilt.

KRS 186.170 Display of registration plates, insignia – Decals to cover corporation trademark – Registration years

Penalty: KRS 186.990(1)

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the cabinet through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle, except motorcycles, licensed under KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. No rim, frame, or other covering around the plate shall in any way obscure or cover any lettering or decal on the plate . . . .

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KRS 186.181 Seizure of cancelled plates by State Police

. . . . . It shall be the duty of all members of the State Police and of all peace officers to seize any registration plate bearing a canceled number and to report such seizure to the appropriate department.

OPERATOR'S LICENSE

KRS 186.401 Definitions of "operator's license" and "commercial driver's license"

As used in KRS 186.400 to 186.640, a **driver's license** shall mean an operator's license issued pursuant to KRS 186.412 and a **commercial driver's license** shall mean a license issued pursuant to KRS Chapter 281A.

KRS 186.410 Operator's licenses – Requirements and issuance – Nondriver identification cards – Validity – Driver training programs

Penalty: KRS 186.990(3)

(1) Every person except those exempted by KRS 186.420 and 186.430 shall before operating a motor vehicle, motorcycle, or moped upon a highway secure an operator's license as provided in this chapter.

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KRS 186.412 Application – License – Temporary license – Nondriver's identification card – Child identfication program – Renewal of license by mail by citizens in military serving out of state – Limited exemption for citizens with expired licenses who are returning from military – Medical insignia – Limitation on number of licenses – Married woman's name – Witnessing making of anatomical gifts

Penalty: KRS 186.990(3)

(1) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

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(16) A person shall not have more than one (1) license.

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KRS 186.420 Exemptions of operators of road or farm machinery and persons in armed forces

(1) No person need obtain an operator's license to operate a road roller, road machinery or any tractor or implement of husbandry temporarily drawn or propelled on the highways.

(2) Every person in the service of the Army, Navy or Marine Corps of the United States, when furnished with an operator's permit from the United States, shall be exempt from an operator's license when operating an official vehicle in the course of his service.

KRS 186.430 Exemption of nonresidents

(1) Except as provided in subsection (2) of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:
   (a) The person possesses a valid license issued by the person's home state;
   (b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and
   (c) The person's home state accords similar privileges to licensed residents of Kentucky.

(2) A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license.

(4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of KRS 186.412. . . . .

(5) A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

KRS 186.435 Application for operator's license by driver who becomes Kentucky resident – Verification of status in other jurisdiction – procedure for permanent residents

(1) A licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

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(3) A person who is not a United States citizen but who has been granted permanent resident status by the United States Department of Justice, Immigration and Naturalization Service, and who is a Kentucky resident, shall follow the same procedures for applying for an original, renewal, transfer, or duplicate operator's license as persons who are United States citizens.

KRS 186.440 Persons ineligible for operator's license – Reinstatement fee and exemption

An operator's license shall not be granted to:

(1) Any person who is not a resident of Kentucky;

(2) Any person under the age of sixteen (16);

(3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
(4) Any person whose operator's license has been suspended, during the period of suspension;
(5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
(6) Any applicant adjudged incompetent by judicial decree;
(7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
(8) Any person who is unable to understand highway warnings or direction signs in the English language;
(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
(11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
(12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
(13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee . . . . The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

KRS 186.450 Instruction permit
Penalty: KRS 186.990(3)

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit.. . . . .
* * * * *

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(3) An instruction permit shall be valid for three (3) years and may be renewed. A person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least twenty-

one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.

(5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving including, but not limited to, emergencies, involvement in school related activities, or involvement in work related activities.

(6) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or non-public secondary school, a person with an instruction permit who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.

(7) A violation under subsection (4), (5), or (6) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.

(8) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

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KRS 186.452 Intermediate License

(1) Beginning April 1, 2007, a person who is at least sixteen and a half (16 1/2) years of age may apply for an intermediate license to operate a motor vehicle if the person has:
   (a) Held an instruction permit a minimum of one hundred eighty (180) days without a violation under subsection (4), (5), or (6) of Section 1 of this Act, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1); and
   (b) Presented a statement to the state police signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience, including at least ten (10) hours at night, while accompanied by a person who has attained the age of twenty-one (21) years and holds a valid operator's license occupying the seat beside the applicant.

(2) If an applicant for an intermediate license successfully completes the examinations required under KRS 186.480, the state police shall affix an intermediate license sticker to the instruction permit and report the applicant's new status to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.

(3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle.
(4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including emergencies, involvement in school-related activities, or involvement in work-related activities.
(5) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or non-public secondary school, a person with an intermediate license who is under the age of eighteen (18) years shall not operate motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.

* * * * *

KRS 186.460 Eligibility of intermediate license holder to obtain operator's license

Beginning October 1, 2007, a person with an intermediate license who is under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle if the person has:
(1) Held an intermediate license for a minimum of one hundred eighty (180) days without a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, a conviction for a violation of KRS 189A.010(1), or a conviction under subsection (3), (4), or (5) of Section 2 of this Act; and
(2) Completed a driver training program under KRS 186.410(4).

KRS 186.510 License to be in possession and to be shown on demand
Penalty: KRS 186.990(3)

The licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand to the circuit clerk or examiner, a peace officer, a member of the Kentucky State Police, or a field deputy or inspector of the Department of Vehicle Regulation or Transportation Cabinet or, pursuant to KRS 67A.075 or 83A.088, a safety officer who is in the process of securing information to complete an accident report. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him before his arrest and valid at the time of his arrest.

KRS 186.560 Mandatory revocation or denial of license – Causes – Period of revocation or denial – Prohibition against reductions of certain revocations or denials – Limited exception relating to enrollment in alcohol or substance abuse education or treatment programs

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:
   (a) Murder or manslaughter resulting from the operation of a motor vehicle;
   (b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
(d) Any felony in the commission of which a motor vehicle is used;
(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and
(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1) (a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

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

satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

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

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

MISCELLANEOUS OPERATOR'S LICENSE OFFENSES

KRS 186.610 Prohibited uses of licenses – Fraud in application

Penalty: KRS 186.990(3)

No person shall:

(1) Display or cause or permit to be displayed or have in his possession any operator's license knowing it to be fictitious or to have been canceled, revoked, suspended or altered;

(2) Lend to, or knowingly permit the use of by, one not entitled to, any operator's license issued to the person so lending or permitting the use of the license;

(3) Represent as one's own any operator's license not issued to the person displaying the license;

(4) Fail to surrender to the cabinet upon demand, any operator's license which has been suspended, canceled or revoked;

(5) Use a false name or give a false address in any application for an operator's license or any renewal or duplicate, or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any application.

KRS 186.620 Unlawful to drive or permit another to drive without license – Display of license on request of peace officer -- Defense

Penalty: KRS 186.990(3)

(1) No person shall authorize or knowingly permit a motor vehicle owned or controlled by him to be driven by any person who has no legal right to drive it or in violation of any of the provisions of KRS 186.400 to 186.640.

(2) No person who has not applied for an operator's license or whose operator's license has been denied, canceled, suspended or revoked, or whose privilege to operate a motor vehicle has been withdrawn, shall operate any motor vehicle upon the highways while the license is denied, canceled, suspended, or revoked or his privilege to operate a motor vehicle is withdrawn, or the license has not been applied for.

(3) If the operator of a motor vehicle on a public highway is requested by a peace officer, authorized to arrest a person for a violation of subsection (2) of this section or KRS 189A.090, to display his operator's license and fails to display his operator's license, that fact shall be admissible in court and shall be prima facie proof of violation of subsection (2) of this section or KRS 189A.090.

(4) It shall be a defense to a charge under this section and KRS 189A.090 if the person charged presents to the court an operator's license issued to him before the date of the charge and which was valid on the date of the charge.

PENALTIES

KRS 186.990 Penalties

(1) Any person who violates any of the provisions of KRS 186.020, . . . 186.045(2), . . . 186.140, . . . 186.170, . . . 186.073, . . . shall be guilty of a violation.
(2) Any person who violates any of the provisions of KRS . . . 186.190, 186.072, . . . shall be guilty of a Class A misdemeanor.
(3) A person who violates the provisions of KRS 186.450 (4), (5), or (6) or KRS 186.455 (3), (4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

* * * * *

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

* * * * *

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

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KRS 186A.065 Prerequisites for operation of motor vehicles or trailers

Penalty: KRS 186A.990(6)

Except as otherwise provided, before the owner of a motor vehicle or trailer may operate it or permit its operation upon the highways of this state, he shall obtain motor vehicle insurance as required by KRS 304.39-080, a certificate of registration, and a license plate and apply for a certificate of title in his name.

KRS 186A.080 Motor vehicles exempt from title and registration requirements

No Kentucky certificate of registration, license plate, or certificate of title need be applied for or obtained for:

(1) A vehicle owned by the United States unless it is registered in this state;
(2) A vehicle owned by a nonresident of this state, principally operated in another state, properly and currently registered and titled in another state;
(3) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective lawful certificate of title has been issued in another state;
(4) A vehicle moved solely by animal power;
(5) An implement of husbandry;
(6) Special mobile equipment;
(7) A self-propelled wheelchair or invalid tricycle;
(8) A pole trailer;
(9) A motor vehicle engaged in the transportation of passengers for hire operating under a currently valid certificate of convenience and necessity; and
(10) A moped.

KRS 186A.095 Time for application for registration and title on vehicle imported into Commonwealth

An owner of a vehicle for which a certificate of registration or title, and license plate must be obtained shall be allowed a fifteen (15) day grace period from the date on which he purchased a vehicle or brings a vehicle into the Commonwealth from another state, during which time the owner shall apply for and obtain motor vehicle insurance pursuant to KRS 304.39-080, a certificate of registration or title, and a license plate in his name.

KRS 186A.100 Application, procedure and use for temporary motor vehicle registration

Penalty: KRS 186A.990(4)

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for sixty (60) days from the date the vehicle is delivered to the purchaser. . . .

* * * * *

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently

registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. . . .

(5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. . . . . A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. . . . .

KRS 186A.250 Suspension or revocation of title – Conditions and methods for action

(1) The Department of Vehicle Regulation shall suspend or revoke a certificate of title, after giving notice and providing a reasonable opportunity for the holder to be heard, when authorized by any other provision of law, or, if it finds:
   (a) The certificate of title was fraudulently procured or erroneously issued; or
   (b) The vehicle has been scrapped, dismantled or destroyed. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

* * * * * * *

(4) Any peace officer shall seize and impound any certificate of title which has been suspended or revoked except when such document is in the custody of the Department of Vehicle Regulation or the Department of State Police.

KRS 186A.305 Alteration or removal of motor vehicle identification number prohibited
Penalty: KRS 186A.990(3)

(1) No person shall intentionally remove, deface, cover, destroy, alter, or obscure any vehicle identification number, or other distinguishing number, of a motor vehicle or trailer or any part thereof in this state, without written authorization from the Department of State Police, nor shall any person place or stamp, in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned thereto by the Department of Vehicle Regulation under the provisions of KRS 186.1911 or authorized agency of another state.

* * * * *

KRS 186A.310 Selling or receiving of vehicle with identification number removed or altered prohibited
Penalty: KRS 186A.990(3)

(1) No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any titled motor vehicle or trailer or component part thereof, from which the original manufacturer's vehicle identification number, or serial number, has been removed, defaced, altered, obscured or destroyed, unless such vehicle or component part has attached thereto an identification number assigned or approved by the Department of Vehicle Regulation under the provisions of KRS 186.1911 or authorized agency of another state in lieu of the manufacturer's number.

(2) Whenever such vehicle or component part comes into the custody of a peace officer it shall be forfeited under the procedure established in KRS 500.090. Nothing in this section shall, however, preclude the return of such vehicle or parts to the lawful owner thereof following presentation of satisfactory evidence of ownership and assignment of an identification number by the Department of Vehicle Regulation.

KRS 186A.315 Possession of manufacturer's identification number plates prohibited – Exceptions

Penalty: KRS 186A.990(3)

(1) No person shall have in his possession a manufacturer's vehicle identification number plate unless it is attached to the vehicle, or vehicle part, to which it was originally affixed by the manufacturer, nor shall any person have any facsimile of such a plate.

* * * * *

KRS 186A.320 Duties of peace officer in the event a stolen vehicle is located

(1) When any peace officer has probable cause to believe that a motor vehicle or trailer, or any component part of such vehicle is stolen, he shall impound such vehicle or part and notify its lawful owner, and when applicable, the agency to which the theft was reported, of the recovery of such vehicle or part and where it may be claimed.
(2) A vehicle or component part thereof which has been impounded pursuant to this section shall be released to its lawful owner when such owner presents satisfactory evidence of his ownership.
(3) A vehicle or component part thereof that has been impounded under this section, and which has not been claimed within ninety (90) days following notice of recovery to the owner, or if the owner cannot be located after a reasonable effort, within ninety (90) days following impoundment, is forfeited and shall be disposed of in accordance with procedures set forth in KRS 500.090.

KRS 186A.325 Trafficking in stolen vehicles or stolen vehicle parts

(1) Any person or entity knowingly in possession or control of two (2) or more motor vehicles or trailers or their major component parts or assemblies such as, but not limited to, an engine, transmission, chassis, frame, front clip, rear clip:
    (a) That are stolen; or
    (b) Have had their identity obscured, removed or altered, except as an immediate result of the final destruction by crushing, flattening, grinding up, or shredding of a vehicle or vehicle part for purpose of recycling its metallic content; or
    (c) Have stolen parts on them; or
    (d) Are comprised of any combination of the above;

    shall be deemed to be trafficking in stolen vehicles or stolen vehicle parts.
(2) Trafficking in stolen vehicles or stolen vehicle parts is a Class D felony.

KRS 186A.330 Duties of law enforcement officer in the event of arrest for violation of trafficking in stolen vehicles or stolen parts

(1) Upon the arrest of any person or entity for violation of KRS 186A.325, the law enforcement officer may cause the seizure, pending disposition by the court as provided by subsection (2) of this section, of:
    (a) All vehicles or vehicle parts, held in violation of KRS 186A.310(1) or 186A.325;
    (b) All vehicles and other equipment used to transport property in violation of KRS 186A.325;
    (c) All tools, equipment, and other materials, and all real and personal property used in furtherance of a violation of KRS 186A.325; and
    (d) All money or other proceeds gained from the violation of KRS 186A.325.

(2) Upon the conviction of any person or entity for violation of KRS 186A.325, all items seized in accordance with subsection (1) of this section may be forfeited to the state in a manner consistent with procedures for forfeiture set forth in KRS 500.090.

KRS 186A.345 Definitions to be consistent with KRS 186.010

Unless the context requires otherwise, terms used in this chapter shall be defined, where applicable, as provided by KRS 186.010.

PENALTIES

KRS 186A.990 Penalties

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives information in connection with his review of applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

* * * * * *

(3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.

* * * * *

(6) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.

(7) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

KRS CHAPTER 189

TRAFFIC REGULATIONS; VEHICLE EQUIPMENT AND STORAGE

(Selected Sections)

KRS 189.010 Definitions for chapter

As used in this chapter:

(1) "Department" means the Department of Highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes private residential roads and parking lots covered by an agreement under KRS 61.362, off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) "Manufactured home" has the same meaning as defined in KRS 186.650.

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds.

(7) "Operator" means the person in actual physical control of a vehicle.

(8) "Pedestrian" means any person afoot or in a wheelchair.

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(12)"Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.

(13)"Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(14)"Sharp curve" means a curve of not less than thirty (30) degrees.

(15)"State Police" includes any agency for the enforcement of the highway laws established pursuant to law.

(16)"Steep grade" means a grade exceeding seven percent (7%).

(17)"Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.

(18)"Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(19)(a) "Vehicle" includes:

1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and
2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:

1. Road rollers;
2. Road graders;
3. Farm tractors;
4. Vehicles on which power shovels are mounted;
5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;
6. Vehicles that travel exclusively upon rails;
7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and
8. Vehicles propelled by muscular power.

(20)"Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(21)"Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.

(22)"Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(23)"Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.

(24)"All-terrain vehicle" means any motor vehicle used for recreational off-road use.

KRS 189.020 Equipment of vehicle not to be nuisance or menace

Penalty: KRS 189.990(1)

Every vehicle when on a highway shall be so equipped as to make a minimum of noise, smoke or other nuisance, to protect the rights of other traffic, and to promote the public safety.

KRS 189.030 Time when lights must be on

Penalty: KRS 189.990(1)

(1) Headlamps, when required on a vehicle shall be illuminated:
   (a) During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise; and
   (b) At such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period.
(2) Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

KRS 189.040 Front lights – Flashing lights

(1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this section.
(2) Every motorcycle, moped and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this section.
(3) Except as hereinafter provided, the head lamps or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, , , , ,:
   * * * * * *
(4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.
(5) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.
(6) Whenever the driver of a vehicle follows another vehicle within three hundred (300) feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

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(8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the

presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(9) The height of the headlamps, from the center of the lamp to level ground when the vehicle is unloaded, shall be between twenty-four (24) and fifty-four (54) inches.

KRS 189.043 Flashing white or amber lights to warn of traffic hazard permitted
Penalty: KRS 189.993(12)

Notwithstanding any other provisions against the use of flashing lights, any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing and when so equipped may display such warning in addition to any other warning signals required by law. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than fifteen hundred (1,500) feet under normal atmospheric conditions at night.

KRS 189.045 Flashing lights prohibited near highway
Penalty: KRS 189.993(1)

No person shall install or maintain a red, yellow, green or similarly colored flashing light within one hundred (100) feet of the right of way of a state maintained highway for any purposes other than safety, highway construction, or emergency purposes.

KRS 189.050 Rear, side and clearance lights
1, 2, 5 Penalty: KRS 189.990(1) 3, 4 Penalty: KRS 189.990(2) (c)

(1) All motor vehicles shall display at the rear two (2) red lights visible when lighted for at least five hundred (500) feet, unless the motor vehicle was originally equipped with one (1) such light.

(2) A person shall not operate any motor truck or semitrailer truck on any highway unless it is equipped with a red light that automatically indicates the application of brakes and is visible from the rear a distance of not less than five hundred (500) feet.

(3) No person shall operate on any highway a motor truck or semitrailer truck having a width of any part in excess of eighty-four (84) inches, unless it carries at least two (2) clearance lights to indicate the outside left limit of the motor truck or semitrailer truck, one (1) light colored white, to be attached to and be visible from the front of the motor truck or semitrailer truck, and two (2) lights colored red, to be attached to and be visible from the rear, in each case a distance of not less than five hundred (500) feet.

(4) When in operation on any highway slow-moving or motorless vehicles, except bicycles, shall have at least one (1) light on the left side of the vehicle whether from the front or rear, showing white and of sufficient power to reveal clearly the outline of the left side of the vehicle and in such a manner that the outline may be observed clearly by approaching vehicles from a distance of at least five hundred (500) feet.

(5) When in operation between sunset and sunrise on any highway, motorless vehicles, except bicycles, shall have in operation a four (4) way flasher system, with two (2) flashing yellow or amber lights visible from the front of the vehicle and two (2) flashing red lights visible from the rear of the vehicle.

KRS 189.055 Brake lights
Penalty: KRS 189.993(12)

A person shall not operate any vehicle required by law to be licensed upon a highway unless it is equipped with a mechanical signal device which would indicate an intention to stop or suddenly decrease speed by illuminating at least two (2) red lights, on the rear of the vehicle, which are visible from the rear a distance of not less than five hundred (500) feet, unless the vehicle was originally manufactured with only one (1) such red light on the rear of the vehicle.

KRS 189.060 Lights on vehicles in tow and projections
Penalty: KRS 189.990(1)

(1) Each vehicle towed by a towline shall display the lights required on vehicles of the class to which it belongs.
(2) Each vehicle being hauled by another and connected to it in a manner that will keep them uniformly spaced shall carry at least one (1) light on the left side in such a manner as to show an amber light to the front and a red light to the rear visible at least one thousand (1,000) feet away.
(3) When any part of a load projects more than four(4) feet beyond a vehicle two (2) red flags by day and two (2) red lights during the period provided in KRS 189.030 must be placed upon the extremity of the projection marking the width of the overhang.

KRS 189.070 Motor vehicles to carry and use required flares or similar signals
Penalty: KRS 189.990(1)

(1) A person shall not operate any commercial motor vehicle upon a highway outside of a business or residence district at any time from a half (1/2)-hour before sunset to a half (1/2)-hour before sunrise unless that vehicle carries the number and type of flares, electric lanterns or other signals which the Department of Vehicle Regulation shall by regulation require.
(2) Whenever any commercial motor vehicle truck and its lighting equipment are disabled during a period when lighted lamps must be illuminated on vehicles and the vehicle cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, the person in charge of the vehicle shall cause to be placed upon the highway such flares, lanterns and other signals as the Department of Vehicle Regulation shall by regulation require, and such flares, lanterns or other signals shall be utilized as required by regulations.

KRS 189.080 Horns and other sound devices
Penalty: KRS 189.990(1)

Every motor vehicle, when in use on a highway shall be equipped with a horn or other device capable of making an abrupt sound sufficiently loud to be heard from a distance of at least two hundred (200) feet under all ordinary traffic conditions. Every person operating an automobile or bicycle shall sound the horn or sound device whenever necessary as a warning of the approach of such vehicle to pedestrians, or other vehicles, but shall not sound the horn or sound device unnecessarily. A bell may be used on a bicycle.

KRS 189.090 Brakes

1-3 Penalty: KRS 189.990(1) 4 Penalty: KRS 189.990(2)(c)

(1) No owner shall knowingly operate or permit to be operated on a highway a motor vehicle upon which the brakes are defective.

(2) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. There shall be two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If the two (2) separate means are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(3) (a) Except for commercial motor vehicles with a declared gross vehicle weight of more than ten thousand (10,000) pounds, the service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop the vehicle when traveling twenty (20) miles per hour within a distance of forty (40) feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent (1%).

(b) Under the conditions described in subsection (3)(a) the hand brake shall be adequate to stop the vehicle within a distance of fifty-five (55) feet and the hand brake shall be adequate to hold the vehicle stationary on any grade upon which it is operated.

(c) Under the conditions described in subsection (3)(a) the service brakes upon a motor vehicle equipped with two-wheel brakes only shall be adequate to stop the vehicle within a distance of forty (40) feet and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

(d) All braking distances specified in this section shall apply whether or not the vehicles are loaded to the maximum capacity permitted by law.

(e) All brakes shall be maintained in good working order and shall be so adjusted as to operate with equal effect with respect to the wheels on opposite sides of the vehicle.

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KRS 189.100 Steering device not to be defective

Penalty: KRS 189.990(1)

No owner shall knowingly operate or permit to be operated on a highway a motor vehicle upon which the steering device is defective.

KRS 189.110 Unobstructed windshields – Display of American flag – Windshield wipers

Penalty: KRS 189.990(1)

(1) A windshield in a fixed and upright position, that is equipped with safety glazing as required by federal safety-glazing material standards, is required on every motor vehicle which is operated on the public highways, roads, and streets, except on a motorcycle or implement of husbandry.

(2) A person shall not operate a motor vehicle on a public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon the windshield, except the following:

(a) A certificate or other paper required to be displayed by law;

(b) Sunscreening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area

as defined in Federal Motor Vehicle Safety Standards No. 205 as the AS/1 portion of the windshield.

(3) A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material may be applied to the windows if, when tested on one-eighth (1/8) inch clear glass, the material has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and a light transmittance of at least thirty-five percent (35%) in the visible light range.

(4) A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle any windows behind the driver are composed of, covered by, or treated with any sunscreening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as specified below:

(a) Sunscreen material consisting of film which, when tested on one-eighth (1/8) inch clear glass, has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eighteen percent (18%) in the visible light range; however, sunscreen material which, when tested on one-eighth (1/8) inch clear glass, has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eight percent (8%) in the visible light range may be used on multipurpose passenger vehicles;

(b) Perforated sunscreening material which, when tested in conjunction with existing glazing or film material, has a total reflectance of visible light of not more than thirty-five percent (35%) and a light transmittance of no less than thirty percent (30%). For those products or materials having different levels of reflectance, the highest reflectance from the product or material will be measured by dividing the area into sixteen (16) equal sections and averaging the overall reflectance. The measured reflectance of any of those sections may not exceed fifty percent (50%).

(5) A person shall not operate a motor vehicle required to be registered in the Commonwealth, upon a public highway, road, or street, on which vehicle the rear window is composed of, covered by, or treated with any material which has the effect of making the window nontransparent, unless the vehicle is equipped with side mirrors on both sides.

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(7) Every percentage measurement required by subsections (3) and (4) of this section is subject to a tolerance of plus or minus three percent (3%).

(8) A person shall not install window tinting materials on a vehicle that fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section. Tinted material that fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section shall be removed immediately.

(9) A person who applies sunscreening materials in violation of this section shall be guilty upon conviction of a Class B misdemeanor.

(10) Nothing in this section shall prevent the display of a representation of the American flag on the rear window of any motor vehicle, including any vehicle owned by a local or state

government, provided that the representation does not exceed a size of five (5) inches by eight (8) inches and is placed in a lower corner of the rear window.

(11) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be so constructed as to be controlled by the operator of the vehicle.

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KRS 189.125 Requirements of use of seat belts and child restraint systems – Exceptions

3 Penalty: KRS 189.990(24) 6 Penalty: KRS 189.990(25)

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:
   (a) Motorcycles;
   (b) Motor driven cycles; or
   (c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

* * * * * * *

(3) (a) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.
   (b) Any driver of a motor vehicle, when transporting a child under the age of seven (7) years who is between forty (40) inches and fifty (50) inches in height in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat.

(4) As used in this section:
   (a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.
   (b) "Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap and shoulder belt system.

(5) Failure to use a child passenger restraint system or a child booster seat shall not be considered as contributory negligence, nor shall such failure to use a passenger restraint system or booster seat be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:
   (a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or
   (b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

Editor's Note: The 2006 legislation that removed the requirement that seatbelt violations be a secondary offense provided that law enforcement agencies issue courtesy warnings until January 1, 2007 and include educational materials on the benefits of complying with seatbelt laws.

KRS 189.127 Law enforcement agencies prohibited from erecting roadblocks to check for seatbelt violations

All law enforcement agencies in this state shall be prohibited from erecting roadblocks for the sole purpose of checking for violations of KRS 189.125.

KRS 189.130 Mirrors

Penalty: KRS 189.990(1) 100

(1) Except as provided in subsection (4) of this section, every motor vehicle shall be equipped with the following mirrors so located and adjusted as to reflect to the driver a view of the highway to the rear of the vehicle:
   (a) One (1) mirror mounted on the left side of the vehicle; and
   (b) One (1) mirror, mounted either inside the vehicle approximately in the center or on the right side of the vehicle.
(2) No person shall, by himself or through his agent or servant, operate a motor vehicle upon the highways without the equipment required by subsection (1). Each day of operation without the equipment shall constitute a separate offense.
(3) No person shall sell, barter or otherwise dispose of any motor vehicle described in subsection (1) unless it is equipped with a mirror as provided in that subsection.
(4) A motorcycle shall be required only to have the mirror identified [in] paragraph (a) of subsection (1) of this section.

KRS 189.140 Mufflers – Noise regulation

Penalty: KRS 189.990(1)

(1) Every motor vehicle with an internal-combustion, steam or air motor shall be equipped with a suitable and efficient muffler. No person while on a highway shall operate a motor vehicle with the muffler cut out or removed. No cutout shall be so arranged or connected as to permit its operation or control by the driver of any motor vehicle while in position for driving.
(2) No person shall modify the exhaust system of a motor vehicle or an off highway vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle. The original muffler shall comply with all of the noise requirements of KRS Chapter 224 and regulations promulgated pursuant thereto. No person shall operate a motor vehicle with an exhaust system so modified.

KRS 189.150 Escaping contents – Shifting or spilling loads

Penalty: KRS 189.990(1)

(1) No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping.

(2) No vehicle shall be operated upon any public highway for a distance of over one (1) mile whose load is susceptible to shifting or spillage unless said load is covered with a device suitable for prevention of spillage.

KRS 189.160 Vehicles transporting explosives to be marked – Fire extinguishers
Penalty: KRS 189.990(1)

Whenever a vehicle is used to transport an explosive, it shall be marked on each side and the rear with the word "Explosives" in letters no less than eight (8) inches high, or there shall be displayed on the rear of the vehicle a red flag not less than twenty-four (24) inches square marked with the word "Danger" in white letters six (6) inches high. The vehicle shall be equipped with not less than two (2) fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle.

KRS 189.190 Chains and lugs on wheels – Thickness of solid rubber tires
Penalty: KRS 189.990(3)(a)
2-4 Penalty: KRS 189.990(1) 5 Penalty: KRS 189.990(3)(b)

(1) No person shall use on a highway not covered with ice, a vehicle with a chained wheel, unless the wheel rests upon an ice shoe at least six (6) inches wide.
(2) Where chains are used on rubber-tired vehicles, the cross chains shall be not more than three-fourths (3/4) of an inch in thickness or diameter, and shall be spaced not more than ten (10) inches apart, around the circumference of the tires.
(3) Any machinery, utensils or implements used solely for agricultural, farming or manufacturing purposes may be operated on the highways under present equipment except as is provided in subsection (4).
(4) No tractor, traction engine, hauling engine or other similar power vehicle having any projections on the face of the tires or rims of the wheels in contact with the pavement shall be operated on any highway, the top surface of which is either composed of or treated with bituminous materials or concrete except that the driving wheels may be fitted with flat lugs extending diagonally across the entire width of the tire or rim. Those lugs shall be not less than one (1) inch in width at the bearing surface in contact with the pavement, but those lugs shall be so spaced that not less than two (2) lugs on each driving wheel shall be in contact with the highway surface at all times. The front or nondriving wheels may be fitted with flat steering rings, if those rings are at least two (2) inches in width and not more than one and one-half (1-1/2) inches in height, but there shall be no bolt head, rivet heads or other projections beyond the face of the tire or rim. The narrow angle iron lugs used for plowing or on soft ground shall not be permitted, nor shall any tractor or other vehicles of the caterpillar or track laying type having such projections on the faces of the shoes or treads of the track in contact with the roadway be permitted unless fitted with the flat lugs, in a way that will prevent any injury to the highway by either the narrow angle lugs or the projections on any tractor or other vehicle named in this section.
(5) No solid rubber or rubber compounded tire on any vehicle, other than a vehicle being actually used in the construction or maintenance of a highway, shall be less than one (1) inch thick, measured from the steel flange of the rim. Any person violating this subsection shall be civilly liable for any damage done to any state or county highway. The county attorney of the county in which the damage is done shall institute actions necessary to reimburse the state or county for the damage suffered.

Moving Violations

KRS 189.224 Permitting unlawful operation of a motor vehicle prohibited
Penalty: KRS 189.990(2) (c)

It is unlawful for the owner, or any other person, employing or otherwise directing the operator of any vehicle, to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

KRS 189.231 State maintained highways –Restriction and regulation of traffic
Penalty: KRS 189.990(15) 3 Penalty: KRS 189.990(16)

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(2) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

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KRS 189.285 Regulations for operating and riding on motorcycles – Headgear requirements – Definitions of motorcycle and moped
Penalty: KRS 189.990(1)

(1) A person shall not operate a motorcycle on a highway:
   (a) Except when that person is in possession of a valid motorcycle operator's license; and
   (b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and
   (c) Unless the motorcycle is equipped with a rear-view mirror as required under KRS 189.130.
(2) A person shall not operate or ride as a passenger on a motorcycle:
   (a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and
   (b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.
(3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:
   (a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;
   (b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; and
   (c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle.
(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

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(6) As used in this chapter:
   (a) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this

subsection; and

(b) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

KRS 189.286 Local government may permit operation of golf cart on public roadway -- Ordinance – Qualifications for operation – Exemption from title, registration, and emissions compliance requirements – Preemption by Transportation Cabinet

(1) As used in this section:

(a) "Golf cart" means any self-propelled vehicle that:

1. Is designed for the transportation of players or maintaining equipment on a golf course, while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a golf course;
2. Has a minimum of four (4) wheels;
3. Is designed to operate at a speed of not more than thirty-five (35) miles per hour;
4. Is designed to carry not more than six (6) persons including the driver;
5. Has a maximum gross vehicle weight of two thousand five hundred (2,500) pounds;
6. Has a maximum rated payload capacity of one thousand two hundred (1,200) pounds; and
7. Meets the federal motor vehicle safety standards for low-speed vehicles set forth in 49 CFR 571.500; and

(b) "Local government" means a city, county, charter county government, urban-county government, consolidated local government, unified local government, or a special district.

(2) The governing body of a local government may authorize and regulate the operation of a golf cart on any public roadway under its jurisdiction that lies with five (5) road miles of an entrance to a golf course if the local government adopts an ordinance specifying each roadway that is open for golf cart use.

(3) An ordinance created under subsection (2) of this section shall require that a golf cart operated on a designated public roadway;

(a) Be issued a permit for the golf cart by the local government;

(b) Display a sticker or permit that identifies that the golf cart is allowed to be operated on specific roadways within the local government; and

(c) Be inspected by a certified inspector designated by the county sheriff and certified through the Department of Vehicle Regulation to ensure that the golf cart complies with the requirements of this section. The inspection fee under this paragraph shall not exceed five dollars ($5) with an additional fee not to exceed ten dollars ($10) per trip charged if it becomes necessary for the certified inspector to travel to the site of the golf cart rather than having the golf cart brought to the sheriff's inspection area.

(4) A person may operate a golf cart on a public roadway pursuant to subsection (2) of this section if:

(a) The posted speed limit of the designated public roadway is thirty-five miles per hour or less;
(b) The operator of the golf cart does not cross a roadway at an intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour;
(c) The operator has a valid operator's license in his or her possession;
(d) The golf cart is being operated between sunrise and sunset; and
(e) The golf cart displays a slow-moving vehicle emblem in compliance with KRS 189.820.

(5) A golf cart operating on a public roadway under subsection (2) of this section shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the golf cart at all times of operation on a public roadway.
(6) Any person operating a golf cart on a public roadway under the provisions of this section shall be subject to the traffic regulation of KRS Chapter 189.
(7) A golf cart operating on a public roadway designated by a local government under subsection (2) of this section is not considered to be a motor vehicle and is exempt from:
(a) Title requirements of KRS 186.020;
(b) Vehicle registration requirements of KRS 186.050; and
(c) Emissions compliance certificates pursuant to KRS 224-20.720.
(8) A local government may adopt more stringent local ordinances governing golf cart safety equipment and operation than specified in this section.
(9) The Transportation Cabinet may prohibit the operation of a golf cart on a public roadway designated under subsection (2) of this section that crosses a state-maintained highway under its jurisdiction if it determines that such prohibition is necessary in the interest of public safety.
(10) The provisions of this section shall not apply to a golf cart that is not used on a public roadway except to cross a roadway while following a golf cart path on a golf course.

KRS 189.290 Operator of vehicle to drive carefully

Penalty: KRS 189.990(1)

(1) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.
(2) No person shall willfully operate any vehicle on any highway in such a manner as to injure the highway.

KRS 189.300 Vehicles to keep to right

Penalty: KRS 189.990(1)

(1) The operator of any vehicle when upon a highway shall travel upon the right side of the highway whenever possible, and unless the left side of the highway is clear of all other traffic or obstructions for a sufficient distance ahead to permit the overtaking and passing of another vehicle to be completed without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle being overtaken. The overtaking vehicle shall return to the proper traffic lane as soon as practicable and, if the passing vehicle enters the oncoming traffic lane, before coming within two hundred (200) feet of any approaching vehicle.
(2) The operator of any vehicle moving slowly upon a highway shall keep his vehicle as closely as practicable to the right-hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left.

KRS 189.310 Vehicles meeting other vehicles and animals
Penalty: KRS 189.990(1)

(1) Two (2) vehicles passing or about to pass each other in opposite directions shall have the right of way, and no other vehicle to the rear of those two (2) vehicles shall pass or attempt to pass either of those vehicles.
(2) Vehicles proceeding from opposite directions shall pass each other from the right, each giving to the other one-half (1/2) of the highway as nearly as possible.
(3) Every person operating a vehicle on a highway and approaching any animal being ridden or driven, shall exercise every reasonable precaution to prevent frightening the animal and to insure the safety of the person riding or driving it.

KRS 189.330 Turning and right-of-way at intersections
Penalty: KRS 189.990(1)

(1) When two (2) vehicles approach or enter an intersection from different roadways at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
(2) The right-of-way rule declared in subsection (1) is modified at highways and through intersections and as otherwise stated in this chapter.
(3) Preferential right-of-way may be indicated by stop signs or yield signs. The state highway commissioner with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one (1) or more entrances to such intersections.
(4) Except when directed to proceed by a police officer, every operator of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has view of approaching traffic on the intersecting roadway before entering it. After having stopped the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such operator is moving across or within the intersection or junction of roadways.
(5) The operator of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it. After slowing and stopping, the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such operator is moving across or within the intersection or junction of roadways. Provided, however, that if such an operator is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.
(6) The operator of a vehicle intending to turn shall do so as follows:
    (a) Right turns - both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;
    (b) Left turns - the operator of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left

of the center of the intersection and so as to leave the intersection or other location in the extreme right-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(7) The Transportation Cabinet and local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no operator shall turn a vehicle other than as directed and required by such devices.

(8) The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.

(9) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(10) The operator of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

(11) On highways with a center lane restricted for left turns off the highway by vehicles proceeding in both directions:

(a) A left turn shall not be made from any other lane; and

(b) A vehicle shall not be driven in a center lane as described in this subsection except when preparing for or making a left turn off the highway or merging onto the highway after making a left turn from a side road or other entrance.

KRS 189.340 Overtaking vehicles – Traffic lanes – Following vehicles
Penalty: KRS 189.990(1)

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

(4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.

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(6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:
   (a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;
   (b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation;
   (c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.

(7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of at least sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway or when traffic conditions exist which would prohibit safe use of the right or center lanes.

(8) (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.
   (b) The operator of any motor truck, semitrailer truck, bus or heavy construction equipment unit when traveling upon a highway outside of a business or residential district shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

KRS 189.345 Prohibitions against driving on left side of roadway
Penalty: KRS 189.393(12)

(1) No vehicle shall be driven on the left side of the roadway under the following conditions:
   (a) When approaching or upon the crest of a grade or a curve in the highway where the operator's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
   (b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing;
   (c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one (1) way roadway, nor when an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard, nor to the operator of a vehicle turning left into or from an alley, private road or driveway.

KRS 189.350 Assistance in passing or overtaking
Penalty: KRS 189.990(1)

(1) The operator of a vehicle about to be overtaken and passed shall give way to the right in favor of the overtaking vehicle if the overtaking vehicle is a motor vehicle.
(2) In all cases of meeting, passing, or overtaking of vehicles such assistance shall be given by the operator and occupants of each vehicle, respectively, to the other as the circumstances reasonably demand, in order to obtain clearance and avoid accidents.

KRS 189.370 Passing stopped school or church bus prohibited – Application to properly marked vehicles – Rebuttable presumption as to identity of violator
Penalty: KRS 189.990(5)

(1) If any school or church bus used in the transportation of children is stopped upon a highway for the purpose of receiving or discharging passengers, with the stop arm and signal lights activated, the operator of a vehicle approaching from any direction shall bring his vehicle to a stop and shall not proceed until the bus has completed receiving or discharging passengers and has been put into motion. The stop requirement provided for in this section shall not apply to vehicles approaching a stopped bus from the opposite direction upon a highway of four (4) or more lanes.
(2) Subsection (1) of this section shall be applicable only when the bus displays the markings and equipment required by Kentucky minimum specifications for school buses.
(3) If any vehicle is witnessed to be in violation of subsection (1) of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered or leased was the operator of the vehicle at the time of the alleged violation and is subject to the penalties as provided for in KRS 189.990(5).

KRS 189.378 Funeral processions
Penalty: KRS 189.993(12)

(1) "Funeral procession," as used in this section, means two (2) or more vehicles accompanying the body of a deceased person when each vehicle has its headlights on or is displaying a pennant attached in such a manner as to be clearly visible to approaching traffic.
(2) A vehicle in a funeral procession has the right-of-way at an intersection and may proceed through the intersection if the procession is led by an escort vehicle displaying flashing yellow, red, or blue lights, except:
    (a) When the right-of-way is required by an emergency vehicle as defined by KRS 189.910;
    (b) When vehicles in the procession are directed otherwise by a police or safety officer; or
    (c) When the vehicle is a train or locomotive.
(3) Before assuming the right-of-way, a person who drives a vehicle in a funeral procession shall exercise due caution with regard to crossing traffic.
(4) A person who drives a vehicle that is not part of a funeral procession shall not drive the vehicle between the vehicles of the funeral procession or otherwise interfere with the progress of the procession, except when:
    (a) The person is authorized to do so by a police or safety officer; or
    (b) The vehicle is an emergency vehicle as defined by KRS 189.910.

(5) A person who drives a vehicle that is not a part of a funeral procession shall not illuminate the vehicle headlights or engage in any other act for the purpose of securing the right-of-way granted to funeral processions.
(6) The escort vehicle, hearse, or other vehicles in a procession may be equipped with flashing amber lights for the purpose of notifying the general public of the procession and gaining the right-of-way at intersections, or signaling the end of a procession.
(7) Persons authorized to use flashing lights as defined in KRS 189.920 may use them while accompanying a funeral procession to warn traffic that a procession is approaching or that it is in progress.
(8) When a funeral procession is in progress, a person driving a vehicle not in the procession shall not pass or overtake any vehicle in the procession unless:
    (a) The person is directed to do so by a police or safety officer;
    (b) The procession is on a street, road, or highway outside the corporate limits of a city, town, or urban-county; or
    (c) The procession is on an interstate highway or a state parkway.
(9) Any person who violates this section shall be guilty of a Class B misdemeanor.

KRS 189.380 Signals
Penalty: KRS 189.990(1)

(1) A person shall not turn a vehicle or move right or left upon a roadway until the movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.
(2) A signal indicating the intention to turn right or left shall be given continuously for not less than the last one hundred (100) feet traveled by the motor vehicle before the turn.
(3) A bus driver shall not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to traffic following the bus.
(4) All signals required for a motor vehicle shall be given by signal lamps or mechanical signal devices.
(5) A signal required for a vehicle that is not a motor vehicle may be given by either hand signals, signal lamps, or mechanical signal devices. The signal shall be given intermittently for the last fifty (50) feet traveled by the vehicle before the turn.
(6) Hand signals shall be executed in the following manner when operating a vehicle that is not a motor vehicle:
    (a) The hand and arm shall be extended horizontally from the left side of the vehicle to indicate a left turn;
    (b) The left arm shall be extended horizontally with the hand and arm extended upward from the elbow or the right arm and hand shall be extended horizontally to indicate a right turn;
    (c) Either arm shall be extended horizontally with the hand and arm extended downward from the elbow to indicate a stop or decrease in speed.

KRS 189.390 Speed -- Parking
Penalty: KRS 189.990(1)

(1) As used in this section, unless the context requires otherwise:
    (a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;

(b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business; and

(c) "State highway" means a highway or street maintained by the Kentucky Department of Highways.

(2) An operator of a vehicle upon a highway shall not drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(3) The speed limit for motor vehicles on state highways shall be as follows, unless conditions exist that require lower speed for compliance with subsection (2) of this section, or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section:

(a) Sixty-five (65) miles per hour on interstate highways, and parkways;

(b) Fifty-five (55) miles per hour on all other state highways; and

(c) Thirty-five (35) miles per hour in a business or residential district.

(4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this section in excess of sixty-five (65) miles per hour, except that, notwithstanding the provisions of subsection (3)(a) of this section, the secretary may increase the speed limit on any of the following segments of highway to seventy (70) miles per hour:

1. Interstate 24 (entire length);
2. Interstate 64 from Interstate 264 to the West Virginia state line;
3. Interstate 65 from Interstate 264 to the Tennessee state line;
4. Interstate 71 from Interstate 264 to Interstate 275;
5. Interstate 75 from the Tennessee state line to Interstate 275;
6. The Audubon Parkway (entire length);
7. The Julian M. Carroll Purchase Parkway (entire length);
8. The Bert T. Combs Mountain Parkway from Interstate 64 to the beginning of the Mountain Parkway Extension (KY 9009) in Wolfe County;
9. The Edward T. Breathitt Pennyrile Parkway (entire length);
10. The Wendell H. Ford Western Kentucky Parkway (entire length);
11. The Louie B. Nunn Cumberland Parkway (entire length);
12. The Martha Layne Collins Bluegrass Parkway (entire length); and
13. The William H. Natcher Parkway (entire length).

(b) In a highway work zone, the Transportation Cabinet may temporarily reduce established speed limits without an engineering or traffic investigation. A speed limit established under this paragraph shall become effective when and where posted. The Transportation Cabinet shall post signs notifying the traveling public of the temporary highway work zone maximum speed limit. Nothing in this paragraph shall be construed to prevent the Transportation Cabinet from using moveable or portable speed limit signs in highway work zones.

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(6) The speed limit for motor vehicles in an off-street parking facility offered for public use, whether publicly or privately owned, shall be fifteen (15) miles per hour.
(7) A person shall not drive a motor vehicle at a speed that will impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.
(8) In every charge for a violation of any speed limit specified in this section, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, and the lawful speed limit applicable at the location where the violation is charged to have occurred.

KRS 189.393 Complying with traffic officer's signal
Penalty: KRS 189.990(19)
Not prepayable (KRS 189.999) (1) (b)

No operator of a vehicle, after having received a visual or audible signal from an officer directing traffic shall knowingly or wantonly disregard the signal so as to interfere with or endanger the operation of the traffic officer or other vehicles or pedestrians.

KRS 189.450 Stopping, standing, or repairing vehicle on roadway or shoulders of roadway
Penalty: KRS 189.990(1)

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:
    (a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;
    (b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;
    (c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or
    (d) Any vehicle required to stop by reason of an obstruction to its progress.
(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage

facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:
   (a) On a sidewalk;
   (b) In front of sidewalk ramps provided for persons with disabilities;
   (c) In front of a public or private driveway;
   (d) Within an intersection or on a crosswalk;
   (e) At any place where official signs prohibit stopping or parking; or
   (f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
   (g) On any controlled access highway;
   (h) Within a highway tunnel;
   (i) Within fifteen (15) feet of a fire hydrant; or
   (j) In an area between the roadways of a divided highway.

(6) No person shall move a vehicle not lawfully under his control into any such prohibited area.

(7) The restrictions in subsection (5) (e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

KRS 189.459 Parking limits for vehicles with plates or placards for persons with a disability – Prohibitions

Penalty: KRS 189.990(1)

(1) When a motor vehicle which is being operated by or for the benefit of the person with a disability who is in the motor vehicle at the time it is being operated is displaying an auto registration plate as provided in KRS 186.041 or 186.042 or 186.0425, an out-of-state or out-of-country registration plate for a person with a disability bearing the international symbol of access, a parking placard issued by any Veterans Administration hospital, or an accessible parking placard issued to a person with a disability as prescribed in KRS 189.456 or 189.458 or by another state or foreign country when the accessible parking

placard meets the basic requirements of KRS 189.456 or 189.458, the vehicle may be parked in a parking place designated as accessible to and for the use of a person with a disability.

(2) When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a parking area designated as accessible to and for the use of a person with a disability in a motor vehicle not displaying either an auto registration plate as provided in KRS 186.041, 186.042, 186.0425, or an out-of-state registration plate designated for the use of a person with a disability on the rear of the vehicle unless he displays on the dashboard of his motor vehicle an accessible parking placard issued to a person with a disability. No person shall park a vehicle displaying an accessible parking placard in a parking area designated as accessible to and for the use of a person with a disability when the person with a disability is not in the motor vehicle.

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KRS 189.505 Motor vehicle races on highways prohibited
Penalty: KRS 189.993(5)

No person shall engage upon any street or highway in motor vehicle racing, drag racing, or any other form of competition involving motor vehicles.

KRS 189.515 Restrictions on operation of all-terrain vehicles

Penalty: KRS 189.990(7)

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

KRS 189.520 Operating vehicle not a motor vehicle while under influence of intoxicants or substance which may impair driving ability prohibited – Presumptions concerning intoxication

Penalty: KRS 189.990(1) Not prepayable (KRS 189.999) (1) (b)
2 Penalty: KRS 189.990(8)

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

EDITOR'S NOTE: See KRS 189A.010 for DUI of a motor vehicle or KRS 281A.210 for DUI of a commercial motor vehicle.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:
   (a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;
   (b) If there was an alcohol concentration of 0.05 or greater but less than 0.08, such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant; and
   (c) If there was an alcohol concentration of 0.08 or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

KRS 189.530 Providing motor vehicle to person intoxicated or under influence of substance which may impair driving ability – Possession of open alcoholic beverage container in a motor vehicle prohibited – xceptions – Definitions – Election of offenses to prosecute

1 Penalty: KRS 189.990(9) (a) 2 Penalty: KRS 189.990(9) (b)

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For purposes of this section, "alcoholic beverage" means:
   (a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(4) For the purposes of this section, "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and:

(a) Is open or has a broken seal; or

(b) The contents of which are partially removed.

(5) For the purposes of this section, "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(6) For the purpose of this section, "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(7) No person shall, as a result of a single course of conduct, be tried for or convicted of a violation of this section and a violation of KRS 222.202 or 525.100. The attorney for the Commonwealth shall elect under which statute to proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes for offenses arising out of the same course of conduct.

KRS 189.580 Duty in case of accident

Penalty: KRS 189.990(1)

Not prepayable (KRS 189.999(1) (b)

(1) (a) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(b) If an accident that occurs on an interstate highway or parkway or any on-ramp or off-ramp thereto does not involve death, known or visible injury, or the transportation of hazardous material, the operator shall move the vehicle off the roadway to a place as close to the accident scene as practicable without obstructing traffic as soon as the vehicle can be moved without the risk of further injury or damage. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give any other person involved in the accident, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and the operator of his or her vehicle, and insurance information for the vehicle.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop as close to the accident scene as possible without obstructing traffic and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) If the operator of a vehicle is unable to move a vehicle off the roadway under the provisions of subsections (1) and (2) of this section, the operator or owner may permit any person who possesses a valid operator's license or proper class of commercial driver's license to move the vehicle as provided in this section.

(4) Except as provided for in subsection (5) of this section, a peace officer or safety officer may remove or cause to be removed from the roadway of an interstate highway or parkway or any on-ramp or off-ramp thereto, without consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway of an interstate highway or parkway shall be removed by the most expeditious means available to clear the obstruction, giving due regard to the protection of the property removed.

(5) (a) In accidents that involve fatalities or known or visible injuries, the removal provisions of subsection (4) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed.

(b) The removal provisions of subsection (4) of this section shall not apply if an accident involves, or is believed to involve, a release of hazardous materials.

(6) (a) The operator of a vehicle involved in an accident on a highway in this state which results in a fatality or a known or visible injury to a person or damage to a vehicle which renders the vehicle inoperable shall immediately notify a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction if the operator is physically capable of doing so and has in his or her possession a functioning communications device with which to do so.

(b) In the event an operator fails to notify or is incapable of notifying a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, the responsibility for reporting the accident within a reasonable amount of time shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident if the owner or occupant is physically capable of doing so, has in his or her possession a functioning communications device with which to do so, and, in the case of the owner, knows of the motor vehicle accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with the officer's agency.

(7) The operator of a vehicle involved in an accident on a highway in this state resulting in injury to or death of any person or in which total property damage of five hundred dollars ($500) or more is sustained, and in which an investigation is not conducted by a law enforcement officer, shall file a written report of the accident with the Department of State Police within ten (10) days of the occurrence of the accident upon forms provided by the department.

(8) Any agency, including the Commonwealth, that removes property from the roadway may intervene in any civil action arising from the accident to recover any costs expended. An owner of real property shall not be liable for the costs of removal under this section of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.

KRS 189.635 Vehicle accident reports by operators, law enforcement officers, and agencies – Availability to parties to accident and news-gathering organizations

Penalty: KRS 189.993(12)

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.

(6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.

(7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to

subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.

(8) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast. The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.

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SLOW-MOVING VEHICLE EMBLEM

KRS 189.810 Definitions

(1) "**Slow-moving vehicle**" includes farm machinery, including animal-drawn vehicles, highway construction and maintenance vehicles, and any other type of vehicle except bicycles, capable of a rate of speed no greater than twenty-five (25) miles per hour.

(2) "**Slow-moving vehicle emblem**" consists of a fluorescent yellow-orange triangle with a dark red reflective border, as specified in American Society of Agricultural Engineers R276 or Society of Automotive Engineers J943 standards, or consisting of reasonably similar reflective qualities as specified in said standards.

KRS 189.820 Emblem required – Display – Regulations for mounting emblem

Penalty: KRS 189.993(6)

(1) All slow-moving vehicles sold, leased, or rented in, or for use within, the Commonwealth of Kentucky after January 1, 1971, shall have affixed to them as standard equipment a slow-moving vehicle emblem.

(2) The slow-moving vehicle emblem shall be displayed as herein provided on all slow-moving vehicles operated day or night upon the public roads within the Commonwealth of Kentucky, no later than January 1, 1973.

(3) The slow-moving vehicle emblem shall be mounted as near the center of the rear of the slow-moving vehicle as is practicable, and the lower edge of the emblem shall be mounted at least three feet (3') or more above the road surface, and shall be maintained in a clean, reflective condition.

KRS 189.830 Use restricted – Exemption from requirement

Penalty: KRS 189.993(6)

(1) The slow-moving vehicle emblem shall be restricted to the uses specified herein and the use on any other type of vehicle or on other objects is prohibited.

(2) The said emblem shall not be required on trailers or other drawn vehicles which do not obstruct the slow-moving vehicle emblem required on the towing vehicle.

(3) Highway construction or maintenance vehicles and public utility vehicles shall not require said emblems when being guarded by flagmen or flares.

(4) The use of such slow-moving vehicle emblems shall be in addition to any other reflective or lighting devices required by law.

(5) The slow-moving vehicle emblem shall not be used on a bicycle.

OFF-ROAD VEHICLES

KRS 189.860 Off-road vehicles

Penalty: KRS 189.990(22)

(1) "**Off-road vehicle**" means a motor vehicle capable of cross-country travel, without the benefit of a road or trail. It does not include a farm vehicle, a vehicle used for military or law enforcement purposes, a vehicle used in construction, mining, or other industrial-related purposes, aircraft, or any other vehicle registered under state law.

(2) No person shall operate an off-road vehicle on any private or public property without the consent of the landowner, tenant, or governmental agency responsible for the property.

EMERGENCY VEHICLES

KRS 189.910 Definitions for KRS 189.920 to 189.950

(1) As used in KRS 189.920 to 189.950, "**emergency vehicle**" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, Department of Corrections, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by an emergency management agency; any vehicle used to respond to emergencies or to transport a patient with a critical medical condition if the vehicle is operated by a Cabinet for Health Services-licensed ambulance provider or medical first-response provider; any vehicle commandeered by a police officer; or any motor vehicle with the emergency lights required under KRS 189.920 used by a paid or volunteer fireman or paid or volunteer ambulance personnel or a paid or volunteer local emergency management director while responding to an emergency or to a location where an emergency vehicle is on emergency call.

(2) As used in KRS 189.920 to 189.950, "**public safety vehicle**" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

KRS 189.920 Flashing lights

Penalty: KRS 189.993(7)

(1) All fire department, rescue squad, or publicly owned emergency management agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating, or oscillating lights.

(4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(5) All Department of Corrections vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. The Department of Corrections vehicles shall not be equipped with or use a siren, whistle, or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(6) Red flashing lights may be used by school buses.

(7) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(8) Vehicles used as command posts at incidents may be equipped with and use when on scene, a green rotating, oscillating, or flashing light. This light shall be in addition to the lights and sirens required in this section.

(9) A personal vehicle used by a paid or volunteer firefighter, ambulance personnel or emergency services director who is responding to an emergency shall display the lights required in subsection (1) of this section.

KRS 189.930 Right-of-way to emergency vehicles – Blocking or following emergency vehicles – Driving over unprotected hoses of fire department

Penalty: KRS 189.993(8)

(1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.

(4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use

at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.

(5) Upon approaching a stationary emergency vehicle, when the emergency vehicle is giving a signal by displaying alternately flashing red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:
   (a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:
      1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and
      2. If it is possible to make the lane change with due regard to safety and traffic conditions; or
   (b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.

(6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

KRS 189.940 Exemptions from traffic regulations
Penalty: KRS 189.993(9)

(1) The speed limitations set forth in the Kentucky Revised Statutes do not apply to emergency vehicles:
   (a) When responding to emergency calls; or
   (b) To police vehicles when in pursuit of an actual or suspected violator of the law; or
   (c) To ambulances when transporting a patient to medical care facilities; and
   (d) The driver thereof is giving the warning required by subsection (5) (a) and (b) of this section. No portion of this subsection shall be construed to relieve the driver of the duty to operate the vehicle with due regard for the safety of all persons using the street or highway.

(2) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving the warning required by subsection (5) of this section, upon approaching any red light or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed past such red or stop light or stop sign with due regard for the safety of persons using the street or highway.

(3) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving warning required by subsection (5) of this section, may drive on the left side of any highway or in the opposite direction of a one-way street provided the normal lanes of traffic are blocked and he does so with due regard for the safety of all persons using the street or highway.

(4) The driver of an emergency or public safety vehicle may stop or park his vehicle upon any street or highway without regard to the provisions of KRS 189.390 and 189.450, provided that, during the time the vehicle is parked at the scene of an emergency, at least one (1) warning light is in operation at all times.

(5) The driver of an emergency vehicle desiring the use of any option granted by subsections (1) through (3) of this section shall give warning in the following manner:
   (a) By illuminating the vehicle's warning lights continuously during the period of the emergency; and

(b) By continuous sounding of the vehicle's siren, bell, or exhaust whistle; unless

(c) The vehicle is an ambulance and the driver is of the opinion that sounding of the siren, bell, or exhaust whistle would be detrimental to the victim's health. In the event the driver of an ambulance elects not to use the siren, bell, or exhaust whistle he shall not proceed past red lights or drive in the opposite direction on a one-way street or in oncoming lanes of traffic unless no other vehicles are within five hundred (500) feet of the front of the ambulance. The driver shall not extinguish the warning lights during the period of the emergency.

(6) No driver or operator of any emergency or public safety or other vehicle shall use the warning lights or siren, bell, or exhaust whistle of his vehicle for any purposes or under any circumstances other than those permitted by KRS 189.910 to 189.950.

(7) KRS 189.910 to 189.950 does not relieve the driver of any emergency or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

KRS 189.950 Prohibitions – Exceptions
Penalty: KRS 189.993(11)

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency or to a location where another emergency vehicle is on emergency call in the performance of his official duties as a member of a fire department or rescue squad.

(5) Any constable may, upon approval of the fiscal court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws. Any constable authorized by the fiscal court to utilize blue lights and a siren pursuant to this section shall maintain at least the insurance described by KRS 304.39-110.

(6) Any person who is a paid or voluntary member of any ambulance service furnishing emergency medical services for a political subdivision of the state may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief or director of the ambulance service. He may use such lights and equipment only while proceeding to the scene of an emergency, a medical facility, or to a location where another emergency vehicle is on emergency call in the performance of his official duties as a member of the ambulance service.

PENALTIES

KRS 189.990 Penalties

(1) (a) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, . . . 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.599, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(b) 1. Except as provided in subparagraph 2 of this paragraph, any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both.

2. Any person who violates subsection (1)(a) of KRS 189.580 where the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury shall be imprisoned in the county jail for a period of one (1) year. The person shall be additionally fined the thousand dollars ($10,000). Neither the sentence of imprisonment nor the fine shall be suspended or probated, except that the fine may be reduced by ten dollars ($10) for every hour the person performs community service work approved by the court. The person may receive work release during the period of imprisonment to perform all or a portion of the community service work allowed by this subparagraph. The penalty established under this subsection shall for all purposes be deemed a misdemeanor, any statute to the contrary notwithstanding.

(c) Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) * * * * * * *

(c) Any person who violates any provision of subsections (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, . . . for which another penalty is not specifically provided, shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

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(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

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

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

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

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

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

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

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

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

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

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

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

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

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

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

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(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars ($50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 42A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

(25) Any person who violates the provisions of subsection (3)(b) of Section 1 of this Act shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars ($30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who [had] not been previously charged with a violation of subsection (3)(b) of Section 1 of [this Act] may elect to acquire a booster seat meeting the requirements of Section 1 of [this Act]. Upon presentation of sufficient proof of acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

(26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

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

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

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

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

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

KRS 189.993 Penalties

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(5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars ($60) nor more than two hundred dollars ($200) or be imprisoned for not more than thirty (30) days, or both.

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(7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle not authorized to use emergency lights under KRS 189.920, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars ($60) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not more than thirty (30) days, or both.

(9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars ($60) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(10) If a member of a regular or volunteer fire department, ambulance service, or rescue squad violates any provisions of subsection (6) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or this section, be immediately dismissed from his membership or employment with the fire department, ambulance service, or rescue squad and shall be disqualified from being employed by or being a member of any fire department, ambulance service, or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, ambulance service, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.

(11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense, except that no penalty shall be assessed f or a violation of KRS 189.580(1)(b)or (6)(b).

(13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each violation and shall be deposited in the resource recovery road fund.

KRS 189.999 Prepayment of fines subject to certain conditions

(1) All offenses under this chapter classified as violations shall be prepayable except for:
   (a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;
   (b) Any offense relating to KRS 189.393, 189.520, or 189.580;
   (c) When the defendant is speeding in a restricted zone;
   (d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;

(e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(f) The offense is cited with another offense that is not prepayable; or

(g) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

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KRS CHAPTER 189A

DRIVING UNDER THE INFLUENCE

(Selected Sections)

KRS 189A.005 Definitions for chapter – License suspensions

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

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

(2) "**Ignition interlock device**" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting, and from continuing to operate, if a driver's breath alcohol concentration exceeds 0.02, as measured by the device;

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

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

(4) "**Limited access highway**" has the same meaning as "limited access facility" does in KRS 177.220;

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

(6) When age is a factor, it shall mean age at the time of the commission of the offense; and

(7) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment.

KRS 189A.010 Operating motor vehicle with alcohol concentration of or above 0.08, or of or above 0.02 for persons under age twenty-one, or while under the influence of alcohol or other substance which impairs driving ability prohibited – Admissibility of alcohol concentration test results – Presumptions – Penalties – Aggravating circumstances

(1) A person shall not operate or be in physical control of a **motor vehicle** anywhere in this state:

EDITOR'S NOTE: See 189.540 for DUI of a vehicle that is not a motor vehicle and KRS 281A.210 for DUI of a Commercial Motor Vehicle.

(a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two

(2) hours of cessation of operation or physical control of a motor vehicle;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).

(2) With the exception of the results of the tests administered pursuant to KRS 189A.103 (7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsections (1) (a) and (1) (e) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsections (1) (b) and (1) (d).

(3) In any prosecution for a violation of subsection (1) (b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(A) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

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

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5) Any person who violates the provisions of paragraphs (a), (b), (c), or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other

form of early release.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1) (e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction

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

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

(8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional

discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5) (a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

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

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

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

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

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

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

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

KRS 189A.090 Operating motor vehicle while license is revoked or suspended for driving under the influence prohibited – Operating motor vehicle without required ignition interlock device prohibited – Penalties

(1) No person shall operate or be in physical control of a motor vehicle while his license is revoked or suspended under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of KRS 189A.345(1).

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:

(a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

(b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor

vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.

(3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:

(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);

(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and

(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.

(5) Upon a finding of a violation of any of the conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2) (b) or (c) of this section.

KRS 189A.103 Consent to tests for alcohol or substance in blood – Test procedures – Who may administer – Personal testing

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He has given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. The secretary of the Justice

Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

KRS 189A.105 Effect of refusal to submit to tests – Information required to be provided when tests requested – Court-ordered testing – Right to consult attorney before submitting to tests – Personal testing option

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

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

1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license; and
2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010 (1), and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating KRS 189A.010 (1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18; and
3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident,

when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.

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

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

KRS 189A.340 Ignition interlock devices

(1) In lieu of ordering license plate impoundment under KRS 189A.085 of a person convicted of a second or subsequent violation of KRS 189A.010, the court may order installation of an ignition interlock device as provided in this section as follows:

(a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of KRS 189A.070 other than KRS 189A.070 (1) (a), the court shall also order that, at the conclusion of the license revocation, the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or subsequent violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of KRS 189A.010 or 189A.090. If the court grants

permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

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KRS 189A.345 Penalties for violation of KRS 189A.410 and 189A.340 governing ignition interlock devices

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under KRS 189A.340 (1) or under KRS 189A.410 (2).

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in KRS 189A.340(1) or under KRS 189A.410(2)(b).

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

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

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

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

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

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

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

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

KRS Chapter 281A

COMMERCIAL DRIVER'S LICENSES

(Selected Sections)

KRS 281A.010 Definitions

(1) "**Alcohol**" means:
   (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
   (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or
   (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
   (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) "**Alcohol concentration**" means:
   (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
   (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
   (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.

* * * * *

(5) "**Commercial driver's license**," or **CDL**, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.

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(7) "**Commercial driver's instruction permit**" means a permit issued pursuant to KRS 281A.120.

(8) "**Commercial motor vehicle**," or **CMV**, means a motor vehicle or combination motor vehicle used in commerce that is:
   (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
   (b) Designed to transport sixteen (16) or more passengers, including the driver;
   (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
   (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.

(9) "**Controlled substance**" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.

(10) "**Conviction**" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty, a plea of nolo contendere, or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(11) "Disqualification" means a withdrawal, cancellation, suspension, or revocation of the privilege to drive a commercial motor vehicle.
(12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
(13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
(14) "Driver's license" means a license issued by a state or foreign jurisdiction to an individual that authorizes the individual to drive a motor vehicle.

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(17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.
(18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.
(19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
(20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.
(21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
(22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.
(23) "Moped" shall have the same meaning as in KRS 186.010(5).
(24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.

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(26) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
(27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include, but not be limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
(28) "School bus" means a vehicle that meets the specification of KRS 156.153 and is designed to transport sixteen (16) or more passengers including the driver.
(29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
    (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
    (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
    (c) Improper or erratic traffic lane changes;
    (d) Following the vehicle ahead too closely;
    (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident; or

(f) Driving a commercial motor vehicle without a CDL;
(g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;
(h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or
(i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.

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(32) "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn along a public highway, except devices moved by human or animal power, used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

KRS 281A.050 Drivers excluded from operation of chapter

The provisions of this chapter shall not apply to:
(1) Drivers of firefighting and other emergency equipment;
(2) Drivers of commercial motor vehicles if those persons are:
  (a) Military personnel; and
  (b) Operating the vehicles in pursuit of a military purpose;
(3) Drivers of farm vehicles that are:
  (a) Used to transport agricultural products, farm machinery, or farm supplies to or from a farm[1];
  (b) Not used in the operations of a common or contract motor carrier;
  (c) Used within one hundred fifty (150) highway miles of the farmer's farm; and
  (d) Controlled and operated by a farmer, including operation by employees or family members; and
(4) Drivers of vehicles that:
  (a) Are designed as temporary living quarters for recreational, camping, or travel use; and
  (b) Operate on their own motor power or are mounted on or drawn by another vehicle.

KRS 281A.060 License limitation

No person who drives a commercial motor vehicle may have more than one (1) driver's license.

KRS 281A.090 Restrictions on driving

(1) Except when driving under a commercial driver's instruction permit and accompanied by the holder of commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle on the highways of this state unless the person holds a valid commercial driver's license with applicable endorsements valid for the vehicle he is driving.
(2) No person shall drive a commercial motor vehicle on the highways of this state while his driving privilege for a commercial or noncommercial motor vehicle is suspended, revoked, or canceled, or while he is subject to a disqualification, or in violation of an out-of-service order.
(3) The licensee shall have in his immediate possession at all times when operating a motor vehicle his commercial driver's license, and shall display the license upon demand to a circuit clerk, a license examiner, a peace officer, a State Police officer, or

an inspector or officer of the Department of Vehicle Regulation. It shall be a defense to a violator of this subsection if the person so charged produces in court a commercial driver's license, issued to him before his arrest or violation and which was valid at that time.

KRS 281A.170 Form of licenses – Limitations on licenses – Expiration

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(2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.

(a) Classifications:

1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
   a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
   b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
4. Class D - All other vehicles not listed in any other class.
5. Class E - Moped only.
6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.

(b) Endorsements:

1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
3. "P" - Authorizes operation of vehicles carrying passengers.
4. "N" - Authorizes operation of tank vehicles.
5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
6. "R" - Authorizes operation of all other endorsements not otherwise specified.

(c) Restrictions:

1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.
2. "I" - Restricts the driver to Kentucky intrastate commerce driving.
3. "L" - Shall not include a Class "A" bus.
4. "J" - Shall not include a Class "A" or "B" bus.
5. "O" - Shall not include tractor, semitrailer style vehicles.

6. "Z" - Exempt intracity zones for commercial vehicles.
7. "1-9" - Other restrictions.
8. "A" - Restricts the driver to operation of vehicles equipped with an automatic transmission because the person conducted the required skills test in a commercial vehicle equipped with an automatic transmission. A person wanting to remove this restriction in order to operate a vehicle with a manual transmission shall be required to successfully complete a skills test while operating a commercial vehicle equipped with a manual transmission.

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(5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.

(6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

KRS 281A.190 Disqualification – Suspension, revocation, or cancellation – Right to appeal

(1) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:
   (a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance;
   (b) Driving or being in physical control of a motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;
   (c) Leaving the scene of an accident involving a motor vehicle driven by a person who holds or is required to hold a CDL;
   (d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;
   (e) Refusing to submit to testing as required by KRS 281A.220 when driving a motor vehicle;
   (f) Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or
   (g) Causing a fatality through negligent or criminal operation of a commercial motor vehicle.

(2) A person who holds or is required to hold a CDL shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Motor Carrier Safety Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person who holds or is required to hold a CDL shall be disqualified for a period of three (3) years.

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(5) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a

controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days consecutively if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person who holds or is required to hold a CDL shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.

(8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 189A.107, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

(9) If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
   (a) Sixty (60) days for the first offense;
   (b) One hundred twenty (120) days for the second offense within a three (3) year period; and
   (c) One (1) year for the third or subsequent offense within a three (3) year period.

(10) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
   (a) Ninety (90) days for the first offense;
   (b) One (1) year for the second offense in a separate incident within a ten (10) year period; and
   (c) Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.

(11) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:
   (a) One hundred eighty (180) days for the first offense; and
   (b) Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.

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KRS 281A.210 Operating commercial vehicle while under the influence of alcohol or other controlled substance

(1) Notwithstanding any other provision of this chapter, a person shall not drive a commercial motor vehicle within this state while having any measurable or detectable amount of alcohol or other controlled substances in his system.

EDITOR'S NOTE:

See KRS 189A.010 for DUI of a motor vehicle and KRS 189.520 for DUI of a vehicle that is not a motor vehicle (e.g., bicycles, horses and buggies, etc).

(2) A person who drives a commercial motor vehicle within this state while having any detectable amount of alcohol or controlled substance in his system or who refuses to submit to the test required in KRS 281A.220, shall be placed out of service for twenty-four (24) hours.

(3) A person who drives a commercial motor vehicle within this state with an alcohol concentration of four hundredths (0.04) or more shall be deemed to be operating a vehicle under the influence.

(4) A person who drives a commercial motor vehicle within this state with an alcohol concentration of four hundredths (0.04) or more, or who refused to submit to the test required in KRS 281A.220, in addition to any other sanctions that may be imposed under this chapter shall be disqualified from driving a commercial motor vehicle under KRS 281A.190.

KRS 281A.220 Testing to determine alcohol concentration or presence of other controlled substances

(1) A person who drives a commercial motor vehicle within this state shall be deemed to have given his consent to take a test or tests of his blood, breath, or urine for the purpose of determining alcohol concentration, or the presence of other drugs.

(2) A test or tests may be administered in accordance with the provisions of KRS 189A.103 at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver has reasonable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his system. A urine test shall be a test of last resort under the provisions of this section. The pretrial suspension provisions and implied consent provisions of KRS Chapter 189A shall be applicable to this section.

KRS 281A.240 Recognition of commercial driver's license or permit of foreign jurisdiction – Effect of foreign convictions

(1) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state, Canada, or Mexico in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's license, if the person's driving privilege is not suspended, revoked, or canceled; and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order.

(2) The Commonwealth of Kentucky shall give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this state. Except as otherwise provided, when in this chapter reference is made to an offense which is a violation of a provision of this chapter or other Kentucky state law, the reference shall be deemed to include offenses under any local ordinance, any federal law, any law or local ordinance of another state substantially similar to any provision of the Kentucky Revised Statutes.

KRS CHAPTER 304

INSURANCE CODE

(Selected Sections)

Subtitle 39

MOTOR VEHICLE REPARATIONS ACT

KRS 304.39-080 Security covering motor vehicle

Penalty: KRS 304.99-060

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner or operator of a motor vehicle registered in this Commonwealth or operated in this Commonwealth with an owner's permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.

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KRS 304.39-090 Required security

Penalty: KRS 304.99-060

An owner of a motor vehicle registered in this Commonwealth who ceases to maintain security as required by the provisions on security may not operate or permit operation of the vehicle in this Commonwealth until security has again been provided as required by this subtitle. An owner who fails to maintain security as required by this subtitle shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040. All other owners shall provide such security while operating a motor vehicle in this Commonwealth.

KRS 304.39-110 Required minimum tort liability insurance

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Either:

1. Split limits liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one

(1) person, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury sustained by all persons injured as a result of any one (1) accident, plus liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; or

2. Single limits liability coverage of not less than sixty thousand dollars ($60,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and

(c) Basic reparation benefits as defined in KRS 304.39-020(2).

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

(3) Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a) and (b) of this section.

KRS 304.39-117 Motor vehicle insurance card

Penalty: KRS 304.99-010

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle.

(2) The owner shall keep the card in his motor vehicle as prima facie evidence, except as provided in subsection (3) of this section, that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) On and after January 1, 2006, as to personal motor vehicles as defined in KRS 304.39-087, the card and the database created by KRS 304.39-087 shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept an insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more that forty-five (45) days before the date on which the peace officer requests the card.

Subtitle 99
PENALTIES

KRS 304.99-010 General Penalties

In addition to or in lieu of the specific penalties provided for by this code, any person who violates any provision of this code or who knowingly violates any proper order of the commissioner shall, upon conviction by a court of competent jurisdiction, be fined not less than one hundred dollars ($100) or twice the amount of the gain from the commission of the violation, whichever is greater, be subject to revocation of certificate of authority or license, or both.

KRS 304.99-060 Penalties for violation of Subtitle 39 -- Reduction of penalty

(1) The owner or operator of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:
   (a) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or sentenced to not more than ninety (90) days in jail, or both;
   (b) Have the registration of the motor vehicle revoked and the license plates of the vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that the security is then and will remain in effect; and
   (c) For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560, and may be sentenced to one hundred and eighty (180) days in jail, or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(2) Penalties under subsection (1) of this section for the first offense are subject to conditional discharge, suspension, or other forms of reduction of penalty by judicial discretion upon production of proof of security.

(3) For the second and each subsequent offense, minimum fines, suspensions, and penalties under subsection (1) of this section are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

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(6) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.

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KRS CHAPTER 217

FOODS, DRUGS, AND POISONS

(Selected Sections)

FOOD, DRUG AND COSMETIC ACT

KRS 217.005 Citation of KRS 217.005 to 217.215

KRS 217.005 to 217.215 may be cited as the Kentucky Food, Drug and Cosmetic Act.

KRS 217.006 Applicability of definitions in KRS 516.010 to KRS 217.207, 217.208, and 217.209

For purposes of KRS 217.207, 217.208, and 217.209, the definitions found in KRS 516.010 apply.

KRS 217.007 Applicability of penalties in KRS Chapter 506 to KRS 217.005 to 217.215

Unless this chapter provides a specific penalty for the same act, the provisions of KRS Chapter 506 shall apply to offenses under KRS 217.005 to 217.215.

KRS 217.015 Definitions for KRS 217.005 to 217.215 – General principles

For the purposes of KRS 217.005 to 217.215:

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(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

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(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

* * * * *

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.560(3) and (4);

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

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(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

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(46) "Traffic" has the same meaning as it does in KRS 218A.010;

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KRS 217.177 Sale and disposal of hypodermic syringes or needles
Penalty: KRS 217.990(11)

(1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.
(2) Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:
    (a) The name of the purchaser; and
    (b) The address of the purchaser; and
    (c) The quantity of syringes or needles purchased; and
    (d) The date of the sale; and
    (e) Planned use of such syringes or needles.
(3) Said record shall be maintained for a period of two (2) years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employee of the Cabinet for Health Services or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.
(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.
(5) No person engaged in the retail sale of hypodermic syringes or needles shall:
    (a) Fail to keep the records required by this section; or
    (b) Fraudulently alter any record required to be kept by this section; or
    (c) Destroy, before the time period required by this section has elapsed, any record required to be kept by this section; or
    (d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this section; or
    (e) Disclose the names in said book except to those required by this section.
(6) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall crush the barrel of same or otherwise render the instrument incapable of further use.

KRS 217.181 Theft of a legend drug

(1) A person is guilty of theft of a legend drug when he unlawfully takes or exercises control over a legend drug that is not a controlled substance, belonging to another person, with the intent to deprive him thereof.
(2) Theft of a legend drug is:
    (a) For a first offense a Class D felony, if the legend drug has a value of three hundred dollars ($300) or less; or
    (b) For a second or subsequent offense, or a value of greater than three hundred dollars ($300), a Class C felony.

KRS 217.182 Sale, distribution, administration, prescription, or possession of legend drugs – Penalty

(1) A duly licensed manufacturer, distributor, or wholesaler may sell or distribute a legend drug to any of the following:
    (a) A manufacturer, wholesaler, or distributor;
    (b) A pharmacy;

(c) A practitioner;
(d) The administrator in charge of a hospital, but only for use by or in that hospital; and
(e) A person in charge of a laboratory, but only for use in that laboratory for scientific and medical research purposes.

(2) A pharmacist may sell or distribute a legend drug:
(a) Pursuant to a prescription that conforms to the requirements of this chapter; or
(b) To a person licensed to administer, dispense, distribute, or possess a legend drug.

(3) A practitioner may:
(a) Administer, dispense, or prescribe a legend drug for a legitimate medical purpose and in the course of professional practice; or
(b) Distribute a legend drug to a person licensed to administer, dispense, distribute, or possess a legend drug.

(4) Possession or control of legend drugs obtained as authorized by this section shall be lawful if it occurred in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) No person shall traffic in any legend drug except as authorized by this section.

(6) No person shall dispense, prescribe, distribute, or administer any legend drug except as authorized by this section.

(7) No person shall possess any legend drug except as authorized by this section.

(8) Unless another specific penalty is provided in KRS 217.005 to 217.215, any person who violates any provision of subsections (1) to (6) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(9) Unless another specific penalty is provided in KRS 217.005 to 217.215, any person who violates the provision of subsection (7) of this section shall be guilty of a Class B misdemeanor.

(10) A person to whom or for whose use a legend drug has been prescribed or dispensed may lawfully possess it.

KRS 217.184 Enforcement of sections governing legend drugs

(1) All police officers and deputy sheriffs, directly employed full-time by state, county, city, or urban-county governments, the State Police, ... within their respective jurisdictions, shall enforce KRS 217.207, 217.208, 217.209, 217.181, and 217.182 relating to legend drugs and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to legend drugs.

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KRS 217.207 Theft, criminal possession, trafficking, or unlawful possession of a prescription blank

(1) A person is guilty of theft of a prescription blank when he unlawfully takes or exercises control over a prescription blank belonging to another.

(2) A person is guilty of criminal possession of a prescription blank when, with knowledge that he has no lawful authority to possess a prescription blank, he possesses a prescription blank with the intent to make or utter a forged prescription or sell or transfer the prescription blank to another person for that purpose.

(3) A person is guilty of trafficking in prescription blanks when he knowingly and unlawfully traffics in a prescription blank or a forged prescription for a legend drug.

(4) The knowing, with intent to violate this chapter, possession of a prescription blank by a person other than a pharmacist, practitioner, or other person authorized by law to prescribe or dispense a legend drug, a manufacturer, wholesaler, or distributor, or by a person lawfully printing or reproducing prescription blanks, shall be prima facie evidence that the prescription blank was possessed for the purpose of making or uttering a forged prescription or for sale or transfer to another person for that purpose.

(5) Any person who violates any subsection of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

KRS 217.208 Forgery of a prescription

(1) A person is guilty of forgery of a prescription when, with intent to defraud, deceive, or injure another, he falsely makes, completes, or alters a written instrument which is or purports to be or which is calculated to become or to represent a prescription for a legend drug when completed.

(2) Forgery of a prescription is:
   (a) For a first offense, a Class D felony.
   (b) For a second or subsequent offense, a Class C felony.

KRS 217.209 Criminal possession of a forged prescription

(1) A person is guilty of criminal possession of a forged prescription when, with knowledge that it is forged and with intent to defraud, deceive, or injure another, he possesses a forged prescription.

(2) Criminal possession of a forged prescription is:
   (a) For a first offense, a Class A misdemeanor.
   (b) For second or subsequent offense, a Class D felony.

KRS 217.214 Seizure of unlawful prescription

(1) A pharmacist, practitioner, or other person authorized by law to dispense legend drugs, or an employee of that person, may seize and retain any prescription which he has reasonable suspicion for believing is forged, altered, or possessed in violation of KRS 217.207, 217.208, or 217.209.

(2) Seizure and retention shall be for a reasonable period of time to make reasonable inquiry as to whether the prescription is forged, altered, or illegally possessed.

(3) If after reasonable inquiry the pharmacist, practitioner, or other person determines that the prescription is forged, altered, or stolen, he shall report the seizure to a law enforcement officer and shall surrender the prescription to the officer upon the request of the officer.

KRS 217.216 Prescription blanks to include prescribing practitioner's name, telephone number, and business address

Every prescription order written by a practitioner authorized by statute to prescribe under this chapter and KRS Chapter 218A shall bear upon the prescription blank the name, telephone number, and business address of the prescribing practitioner.

VOLATILE SUBSTANCES

KRS 217.900 Volatile substance defined – Inhalation unlawful

Penalty: KRS 217.993(2),(3) Penalty: KRS 217.993(8)

(1) As used in this section, "**volatile substance**" means any glue, cement, or paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when inhaled may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of the auditory, visual, or mental processes.

(2) It shall be unlawful for any person to intentionally smell or inhale the fumes of any volatile substance, or to induce any other person to do so for the purpose of inducing a condition described in subsection (1) of this section.

(3) No person shall intentionally sell or offer for sale, deliver or give any volatile substance to any person for purposes of inhalation in violation of subsection (2) of this section.

KRS 217.902 Repackaging volatile substances

When any person removes any volatile substance from the container in which it is delivered to him and repackages it into containers not used in the ordinary course of business for the purpose of packaging such volatile substances and for the purpose of sale, a rebuttable presumption will be created that he intends to sell such substances for purposes prohibited by KRS 217.900.

PENALTIES

KRS 217.990 Penalties

* * * * *

(11) Any person who violates any of the provisions of KRS 217.177 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than five (5) nor more than thirty (30) days, or both.

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KRS 217.993 Penalties

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(2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be guilty of a Class B misdemeanor.

(3) Any person found guilty of inhaling a volatile substance in violation of KRS 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet for Health Services, where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be

brought before it and may continue the order of treatment or may order the person subject to the fine or imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person from the facility by the clinical director or his designee prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The clinical director or his designee shall notify the sentencing court of the date of such discharge from the facility.

(4) The secretary of the Cabinet for Health Services or his designee shall inform each court of the identity and location of the facility to which a person may be ordered under this section.

(5) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Health Services unless the facility shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) Any person violating any provision of KRS 217.900(3) shall upon conviction be guilty of a Class D felony.

KRS CHAPTER 218A
CONTROLLED SUBSTANCES
(Selected Sections)

KRS 218A.010 Definitions for chapter

As used in this chapter:

(1) **"Administer"** means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
   (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
   (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) **"Anabolic steroid"** means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090 (5) but does not include estrogens, progestins, and anticosteroids.

(3) **"Cabinet"** means the Cabinet for Health Services.

(4) **"Child"** means any person under the age of majority as specified in KRS 2.015.

(5) **"Controlled substance"** means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(6) (a) **"Controlled substance analogue"**, except as provided in subparagraph (b), means a substance:
      1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
      2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
      3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
   (b) Such term does not include:
      1. Any substance for which there is an approved new drug application;
      2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
      3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(7) **"Counterfeit substance"** means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(8) **"Dispense"** means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(9) **"Dispenser"** means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(10) **"Distribute"** means to deliver other than by administering or dispensing a controlled substance.

(11) **"Drug"** means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

* * * * *

(13) **"Hazardous chemical substance"** includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

(a) Poses an explosion hazard;

(b) Poses a fire hazard; or

(c) Is poisonous or injurious, if handled, swallowed, or inhaled.

(14) **"Immediate precursor"** means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture.

(15) **"Intent to manufacture"** means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes, but is not limited to statements, a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.

(16) **"Isomer"** means the optical isomer, except as used in KRS 218A.050 (3) and 218A.070 (1) (d). As used in KRS 218A.050 (3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070 (1) (d), the term "isomer" means the optical or geometric isomer.

(17) **"Manufacture"**, except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(18) **"Marijuana"** means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound,

manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

* * * * *

(22) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.

(23) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
   (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
   (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
   (c) Opium poppy and poppy straw;
   (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
   (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
   (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
   (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(24) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(25) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(26) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(27) "Physical injury" has the same meaning it has in KRS 500.080.

(28) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(29) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(30) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, or veterinarian who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

* * * * *

(32) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(33) **"Prescription blank,"** with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.
(34) **"Production"** includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.
(35) **"Second or subsequent offense"** means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.
(36) **"Sell"** means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.
(37) **"Serious physical injury"** has the same meaning it has in KRS 500.080.
* * * * *
(39) **"Tetrahydrocannabinols"** means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
    1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
    2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
    3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
(40) **"Traffic,"** except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.
(41) **"Transfer"** means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.
(42) "**Ultimate user**" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

KRS 218A.015 Additional definitions for chapter

When used in this chapter, the terms "**intentionally**," "**knowingly**," "**wantonly**," and "**recklessly**," including but not limited to equivalent terms such as "with intent" shall have the same definition and the same principles shall apply to their use as those terms are defined and used in KRS Chapter 501.

KRS 218A.030 Controlled substances – How scheduled

The controlled substances listed or to be listed in the schedules provided for in this chapter are included by whatever official, common, usual, chemical, or trade name designated.

EDITOR'S NOTE: The following sections set criteria for and list the specific drugs to be included in Schedules I thru 5 have been omitted as being lengthy but not that helpful to the officer on the street.

Schedule	*Criteria*	*Drugs Included*
I	*KRS 218A.040*	*KRS 218A.050*
II.	*KRS 218A.060*	*KRS 218A.070*
III	*KRS 218A.080*	*KRS 218A.090*
IV	*KRS 218A.100*	*KRS 218A.110*
V	*KRS 218A.120*	*KRS 218A.130*

TRAFFICKING AND POSSESSION OFFENSES

KRS 218A.140 Prohibited acts relating to controlled substances – Penalties

(1) (a) No person shall obtain or attempt to obtain a prescription for a controlled substance by knowingly misrepresenting to, or knowingly withholding information from, a practitioner.

(b) No person shall procure or attempt to procure the administration of a controlled substance by knowingly misrepresenting to, or withholding information from, a practitioner.

(c) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of a controlled substance by the use of a false name or the giving of a false address.

(d) No person shall knowingly make a false statement regarding any prescription, order, report, or record required by this chapter.

(e) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.

(f) In order to obtain a controlled substance, no person shall present a prescription for a controlled substance that was obtained in violation of this chapter.

(g) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.

(2) No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.

(3) No person shall knowingly obtain or attempt to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship with the practitioner or his or her designee from whom the person seeks to obtain the prescription.

(4) No person shall knowingly assist a person in obtaining or attempting to obtain a prescription in violation of this chapter.

(5) Any person who violates any subsection of this section shall be guilty of a Class D felony for a first offense and a Class C felony for subsequent offenses.

KRS 218A.1401 Selling controlled substances to minor – Penalties

(1) A person is guilty of selling controlled substances to a minor when he, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance to any person under eighteen (18) years of age.
(2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

KRS 218A.1402 Criminal conspiracy to commit offense in KRS Chapter 218A -- Penalties

Any person who commits a criminal conspiracy as defined in KRS 506.040 to commit any offense in this chapter shall be subject to the same penalties as provided for the underlying offense as specified in this chapter.

KRS 218A.1403 Advertising controlled substance – Penalties

(1) No person shall advertise through any media other than a professional or trade publication any controlled substance by either its "trade name" or by its generic or formulary name.
(2) Any person who violates subsection (1) of this section shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

KRS 218A.1404 Prohibited activities relating to controlled substances – Penalties

(1) No person shall traffic in any controlled substance except as authorized by law.
(2) No person shall possess any controlled substance except as authorized by law.
(3) No person shall dispense, prescribe, distribute, or administer any controlled substance except as authorized by law.
(4) Unless another specific penalty is provided in this chapter, any person who violates the provisions of subsection (1) or (3) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for subsequent offenses and any person who violates the provisions of subsection (2) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

KRS 218A.1405 Use and investment of drug-related income – Penalties

(1) It shall be unlawful for any person who has knowingly received any income derived directly or indirectly from trafficking in a controlled substance to use or invest any part of that income, or any proceeds thereof, to acquire any property, or to establish or operate any commercial enterprise.
    (a) As used in this section, "property" includes real and personal property, whether tangible or intangible.
    (b) As used in this section, "commercial enterprise" means any proprietorship, partnership, corporation, association or other legal entity, including any individual or group not a legal entity, which is engaged in any business or commercial activity or whose activities affect business or commerce.
(2) Any person who violates this section shall be guilty of a Class D felony and, in addition to other penalties prescribed by law, shall forfeit any property constituting or derived from any income received directly or indirectly from trafficking in a controlled substance.

KRS 218A.141 Additional penalties for trafficking in controlled substance or marijuana

Any person convicted of, pleading guilty to, or entering an Alford plea to any offense involving trafficking in a controlled substance or trafficking in marijuana shall, in addition to any other penalty authorized by law, be sentenced to:

(1) Pay the costs of disposal of the controlled substances;
(2) Pay the costs of disposal of all equipment, chemicals, materials, or other items used in or in furtherance of the trafficking offense;
(3) Pay the costs involved with environmental clean-up and remediation required for the real property and personal property used for or in furtherance of the trafficking offenses; and
(4) Pay the costs of protecting the public from dangers from chemicals, materials, and other items used for or in furtherance of the trafficking offense from the time of the arrest until the time that the clean-up or remediation of the real and personal property is concluded. The Commonwealth shall have a lien on all of the assets of the defendant until the amount specified by the court under this subsection is paid in full. The Commonwealth's attorney shall file the lien.

KRS 218A.1411 Trafficking in controlled substance in or near school – Penalty

Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V, or a controlled substance analogue in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) yards of any school building used primarily for classroom instruction shall be guilty of a Class D felony, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

KRS 218A.1412 Trafficking in controlled substance in first degree – Penalties

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; phencyclidine; a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers.
(2) Any person who violates the provisions of subsection (1) of this section shall:
    (a) For the first offense be guilty of a Class C felony.
    (b) For a second or subsequent offense be guilty of a Class B felony.

KRS 218A.1413 Trafficking in controlled substance in second degree – Penalties

(1) A person is guilty of trafficking in a controlled substance in the second degree when:
    (a) He knowingly and unlawfully traffics in a controlled substance classified in Schedules I and II which is not a narcotic drug; or specified in KRS 218A.1412; or a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana; or
    (b) He knowingly and unlawfully prescribes, orders, distributes, supplies, or sells an anabolic steroid for:
        1. Enhancing performance in an exercise, sport, or game; or
        2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity.

(2) Any person who violates the provisions of subsection (1) of this section shall:
   (a) For the first offense be guilty of a Class D felony.
   (b) For a second or subsequent offense be guilty of a Class C felony.

KRS 218A.1414 Trafficking in controlled substance in third degree – Penalties

(1) A person is guilty of trafficking in a controlled substance in the third degree when he knowingly and unlawfully traffics in a controlled substance classified in Schedules IV or V.
(2) Any person who violates the provisions of subsection (1) of this section shall:
   (a) For the first offense be guilty of a Class A misdemeanor.
   (b) For a second or subsequent offense be guilty of a Class D felony.

KRS 218A.1415 Possession of controlled substance in first degree – Penalties

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses: a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers.
(2) Possession of a controlled substance in the first degree is:
   (a) For a first offense a Class D felony.
   (b) For a second or subsequent offense a Class C felony.

KRS 218A.1416 Possession of controlled substance in second degree – Penalties

(1) A person is guilty of possession of a controlled substance in the second degree when he knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is not a narcotic drug; or specified in KRS 218A.1415; or, a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana.
(2) Possession of a controlled substance in the second degree is:
   (a) For a first offense a Class A misdemeanor.
   (b) For a second or subsequent offense a Class D felony.

KRS 218A.1417 Possession of controlled substance in third degree – Penalties

(1) A person is guilty of possession of a controlled substance in the third degree when he knowingly and unlawfully possesses a controlled substance classified in Schedules IV or V.
(2) Possession of a controlled substance in the third degree is:
   (a) For a first offense a Class A misdemeanor.
   (b) For a second or subsequent offense a Class D felony.

KRS 218A.1418 Theft of a controlled substance

(1) A person is guilty of theft of a controlled substance when he unlawfully takes or exercises control over a controlled substance belonging to another person with the intent to deprive him thereof.
(2) Theft of a controlled substance is:
   (a) For a first offense a Class D felony if the controlled substance has a value of three hundred dollars ($300) or less.

(b) For a second or subsequent offense, or value greater than three hundred dollars ($300), a Class C felony.

MARIJUANA OFFENSES

KRS 218A.1421 Trafficking in marijuana – Penalties

(1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully traffics in marijuana.
(2) Trafficking in less than eight (8) ounces of marijuana is:
  (a) For a first offense a Class A misdemeanor.
  (b) For a second or subsequent offense a Class D felony.
(3) Trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana is:
  (a) For a first offense a Class D felony.
  (b) For a second or subsequent offense a Class C felony.
(4) Trafficking in five (5) or more pounds of marijuana is:
  (a) For a first offense a Class C felony.
  (b) For a second or subsequent offense a Class B felony.
(5) The unlawful possession by any person of eight (8) or more ounces of marijuana shall be prima facie evidence that the person possessed the marijuana with the intent to sell or transfer it.

KRS 218A.1422 Possession of marijuana – Penalty

(1) A person is guilty of possession of marijuana when he knowingly and unlawfully possesses marijuana.
(2) Possession of marijuana is a Class A misdemeanor.

KRS 218A.1423 Marijuana cultivation – Penalties

(1) A person is guilty of marijuana cultivation when he knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.
(2) Marijuana cultivation of five (5) or more plants of marijuana is:
  (a) For a first offense a Class D felony.
  (b) For a second or subsequent offense a Class C felony.
(3) Marijuana cultivation of fewer than five (5) plants is:
  (a) For a first offense a Class A misdemeanor.
  (b) For a second or subsequent offense a Class D felony.
(4) The planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie evidence that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.

KRS 218A.1431 Definitions for KRS 218A.1431 to 218A.1435 and KRS 218A.141

As used in KRS 218A.1431 to 218A.1438 and KRS 218A.141, the following definitions apply:

(1) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of methamphetamine, or possession with intent to manufacture, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, except that this term does not include activities:
   (a) By a practitioner incident to administering or dispensing of a controlled substance in the course of his professional practice; or
   (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or incident to, research, teaching, or chemical analysis; or
   (c) By a pharmacist incident to dispensing of a controlled substance in the course of his professional practice.

(2) "Methamphetamine" means any substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(3) "Traffic" means to distribute, dispense, sell, transfer, or possess with intent to distribute, dispense, or sell methamphetamine.

KRS 218A.1432 Manufacturing methamphetamine – Penalties

(1) A person is guilty of manufacturing methamphetamine when he knowingly and unlawfully:
   (a) Manufactures methamphetamine; or
   (b) With intent to manufacture methamphetamine possesses two (2) or more chemicals or two (2) or more items of equipment for the manufacture of methamphetamine.

(2) Manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense.

KRS 218A.1437 Possession of a methamphetamine precursor

(1) A person is guilty of unlawful possession of a methamphetamine precursor when he or she knowingly and unlawfully possesses a drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the drug product or combination of drug products as a precursor to manufacturing methamphetamine or other controlled substance.

(2) (a) Except as provided in paragraph (b) of this subsection, possession of a drug product or combination of drug products containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, within any thirty (30) day period shall constitute prima facie evidence of the intent to use the drug product or combination of drug products as a precursor to methamphetamine or other controlled substance.(b) The prima facie evidence referred to in paragraph (a) of this subsection shall not apply to the following persons who lawfully possess a drug product or combination of drug products listed in subsection (1) of this section in the course of legitimate business:
      1. A retail distributor of drug products or wholesaler of drug products or its agent;

2. A wholesale drug distributor, or its agent, issued a permit by the Board of Pharmacy;
3. A pharmacist licensed by the Board of Pharmacy;
4. A pharmacy permitted by the Board of Pharmacy;
5. A licensed health care professional possessing the drug products in the course of carrying out his or her profession;
6. A trained chemist working in a properly equipped research laboratory in an education, government, or corporate setting; or
7. A common carrier under contract with any of the persons or entities set out in subparagraphs 1. to 6. of this paragraph.

(3) Unlawful possession of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KRS 218A.1438 Distribution of a methamphetamine precursor

(1) Notwithstanding KRS 218A.1442, a person is guilty of unlawful distribution of a methamphetamine precursor when he or she knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the drug product or combination of drug products will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the drug product or combination of drug products with reckless disregard as to how the drug product or combination of drug products will be used.

(2) Unlawful distribution of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

(3) In addition to the criminal penalty specified in subsection (2) of this section, or in lieu of the criminal penalty specified in subsection (2) of this section, any person who traffics in or transfers any drug product or combination of drug products specified in subsection (1) of this section intentionally or recklessly with knowledge of or reason to know that the drug product or combination of drug products will be used to illegally manufacture methamphetamine or other controlled substance shall be liable for damages in a civil action for all damages, whether directly or indirectly caused by the sale or trafficking or transfer of the drug product or drug products.

(a) Damages may include, but are not limited to:
1. Any and all costs of detecting, investigating, and cleaning up or remediating unlawfully operated laboratories or other facilities for the illegal manufacture of methamphetamine or other controlled substance;
2. Costs of prosecution of criminal cases arising from the illegal sale, transfer, distribution, manufacture, or dispensing of a controlled substance or their precursors;
3. Court costs and reasonable attorney's fees for bringing this civil action;
4. Consequential damages; and
5. Punitive damages.

(b) A civil action to recover damages against a person or persons violating this section may be brought by the Attorney General, an attorney of the Justice and Public Safety Cabinet, or by any Commonwealth's attorney in whose jurisdiction the defendant may be shown to have committed an act specified in this section.

(c) All moneys collected pursuant to such civil action shall be distributed in the following order:
1. Court costs and reasonable attorney's fees for bringing this civil action;

2. The reimbursement of all reasonable costs of detecting, investigating, cleaning up or remediating the laboratory or other facility utilized for manufacture of methamphetamine underlying the present judgment;
3. The reasonable costs of prosecution of criminal cases arising from trafficking in or transfer of a precursor for the illegal manufacture of methamphetamine giving rise to the present judgment; and
4. All remaining moneys shall be distributed to the General Fund.

KRS 218A.1439 Trafficking in or transferring a dietary supplement

(1) A person is guilty of trafficking in or transferring a dietary supplement, when he or she traffics in or transfers any dietary supplement product containing ephedrine group alkaloids, except as provided in this section.

(2) The prohibition in subsection (1) of this section shall not apply to:
   (a) A practitioner or pharmacist licensed in this Commonwealth who is practicing within his or her scope of practice and who prescribes or dispenses, or both, dietary supplement products containing ephedrine alkaloids in the course of the treatment of a patient under the direct care of the prescribing practitioner, except that a licensed practitioner or registered pharmacist shall not prescribe or dispense dietary supplement, products containing ephedrine group alkaloids for purposes of weight loss, body building, or athletic performance enhancement;
   (b) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed practitioner or registered pharmacist, when the dietary supplement products containing ephedrine group alkaloids are used solely for the purpose of the treatment of patients under the direct care of the practitioner;
   (c) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed practitioner or registered pharmacist for resale to a patient for whom the products have been prescribed under paragraph (a) of this subsection; or
   (d) Dietary supplement products containing ephedrine group alkaloids that are not for resale in this Commonwealth and that are sold or distributed directly to businesses not located in this Commonwealth.

(3) Trafficking in or transferring a dietary supplement is:
   (a) For the first offense, a Class A misdemeanor; and
   (b) For a second or subsequent offense, a Class D felony.

KRS 218A.1441 Controlled substance endangerment to a child in the first degree

(1) A person is guilty of controlled substance endangerment to a child in the first degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child dies as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the first degree is a Class A felony.

KRS 218A.1442 Controlled substance endangerment to a child in the second degree

(1) A person is guilty of controlled substance endangerment to a child in the second degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives serious physical injury as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the second degree is a Class B felony.

KRS 218A.1443 Controlled substance endangerment to a child in the third degree

(1) A person is guilty of controlled substance endangerment to a child in the third degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives physical injury as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the third degree is a Class C felony.

KRS 218A.1444 Controlled substance endangerment to a child in the fourth degree

(1) A person is guilty of controlled substance endangerment to a child in the fourth degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child is not injured as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the fourth degree is a Class D felony.

KRS 218A.1446 Restrictions on purchase of ephedrine, pseudoephedrine, or phenylpropanolamine products

(1) Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.

(2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:

   (a) Produce a government issued photo identification showing the date of birth of the person; and

   (b) Sign a written log or record showing the:

      1. Date of the transaction;
      2. Name, date of birth, and address of the person making the purchase; and
      3. The amount and name of the compound, mixture, or preparation.

   An electronic record-keeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.

(3) A log, as described in subsection (2) of this section, shall be kept of each day's

transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:

(a) Kept for a period of two (2) years; and

(b) Subject to random and warrantless inspection by city, county, or state law enforcement officers; and.

* * * * * *

(5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.

(6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.

(7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health Services.

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(9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

KRS 218A.180 Distribution by practitioner or pharmacist – Prescription requirements – Penalties

(1) Except when dispensed directly by a practitioner to an ultimate user, no methamphetamine or controlled substance in Schedule II may be dispensed without the written prescription of a practitioner. No prescription for a controlled substance in Schedule II shall be valid after sixty (60) days from the date issued. No prescription for a controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written, electronic, or oral prescription by a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date issued or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written, electronic, or oral shall be required.

(3) (a) To be valid, a prescription for a controlled substance shall be issued only for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice. Responsibility for the proper dispensing of a controlled substance pursuant to a prescription for a legitimate medical purpose is upon the pharmacist who fills the prescription.

(b) A prescription shall not be issued for a practitioner to obtain a controlled substance for the purpose of general dispensing or administering to patients.

(4) All written prescriptions for controlled substances shall be dated and signed by the practitioner on the date issued and shall bear the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

(5) All oral or electronic prescriptions shall include the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

(6) All oral or electronic prescriptions shall be immediately reduced to writing, dated, and signed by the pharmacist. A prescription contained in a computer or other electronic format shall not be considered writing.

(7) A pharmacist refilling any prescription shall record on the prescription or other equivalent record the date, the quantity, and the pharmacist's initials. The maintenance of prescription records under the federal controlled substances laws and regulations containing substantially the same information as specified in this subsection shall constitute compliance with this subsection.

(8) The pharmacist filling a written, electronic, or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

(9) Any person who violates any provision of this section shall:

(a) For the first offense, be guilty of a Class A misdemeanor.

(b) For a second or subsequent offense, be guilty of a Class D felony.

KRS 218A.190 Exempt codeine preparations

(1) Nonprescription medicinal preparations that contain in one hundred (100) milliliters, or as a solid or semisolid preparation, in one hundred (100) grams, not more than two hundred (200) milligrams of codeine or its salts may be sold over the counter subject to the following conditions:
   (a) That the medicinal preparation shall contain in addition to the codeine in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the codeine alone;
   (b) That such preparation shall be dispensed or sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter;
   (c) That such preparation shall only be sold at retail without a prescription to a person at least eighteen (18) years of age and only by a pharmacist. An employee may complete the actual cash or credit transaction or delivery;
   (d) That such preparations shall not be displayed in areas of the pharmacy open to the public; and
   (e) That no person shall purchase and no pharmacist or practitioner shall sell to the same person within a forty-eight (48) hour period more than one hundred twenty (120) milliliters of an exempt codeine preparation. Any person purchasing in excess of this limitation shall be deemed to be in illegal possession.

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(3) All pharmacists and practitioners shall keep a separate exempt codeine registry showing the following:
   (a) Date;
   (b) Name of recipient;
   (c) Address;
   (d) Name of preparation;
   (e) Quantity; and
   (f) Pharmacist's or practitioner's name.

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KRS 218A.210 Controlled substances may be possessed only in original container – Penalties

(1) A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed, by a practitioner or other person authorized under this chapter, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.
(2) Violation of subsection (1) of this section is a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

KRS 218A.220 Persons exempt from chapter

The provisions of this chapter shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such substances, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of controlled substances; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

KRS 218A.230 Controlled substances – Possession, forfeiture, disposition – Records, inspection

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept.

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(4) Prescriptions, orders, and records, required by this chapter, and stocks of controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(5) No pharmacist, practitioner, manufacturer, or wholesaler or other custodian of records, prescriptions, or orders required by this chapter shall refuse to permit the inspection thereof by any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

KRS 218A.240 Controlled substances – Duties and authority of state and local officers, Cabinet for Health Services, and Kentucky Board of Pharmacy – Civil proceedings

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, urban-county, or consolidated local governments, the State Police, the Cabinet for Health Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

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(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

   (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

   (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

   (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.

   (d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.420, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.

* * * * * *

(7) (a) The Cabinet for Health Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.

(b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.

(c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.

(d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to subsection (4) of KRS 218A.202, except that the report shall not identify an individual prescriber, dispenser, or patient.

(e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

KRS 218A.280 Controlled substances – Communications with practitioner not privileged

Information communicated to a practitioner in an effort unlawfully to procure a controlled substance, or unlawfully to procure the administration of any controlled substance, shall not be deemed a privileged communication.

KRS 218A.281 Applicability of definitions in KRS 516.010 to KRS 218A.282 and 218A.284

For purposes of KRS 218A.282 and 218A.284, the definitions found in KRS 516.010 apply.

KRS 218A.282 Forgery of a prescription

(1) A person is guilty of forgery of a prescription when, with intent to defraud, deceive, or injure another, he falsely makes, completes, or alters a written instrument which is or purports to be or which is calculated to become or to represent a prescription for a controlled substance when completed.

(2) Forgery of a prescription is:

(a) For a first offense, a Class D felony.

(b) For a second or subsequent offense, a Class C felony.

KRS 218A.284 Criminal possession of a forged prescription

(1) A person is guilty of criminal possession of a forged prescription when, with knowledge that it is forged and with intent to defraud, deceive, or injure another, he utters or possesses a forged prescription for a controlled substance.

(2) Criminal possession of a forged prescription is:
   (a) For a first offense, a Class D felony.
   (b) For a second or subsequent offense, a Class C felony.

KRS 218A.286 Theft, criminal possession, trafficking, or unlawful possession of a prescription or blank

(1) A person is guilty of theft of a prescription blank when he unlawfully takes or exercises control over a prescription blank belonging to another.
(2) A person is guilty of criminal possession of a prescription blank when, with knowledge that he has no lawful authority to possess a prescription blank, he possesses a prescription blank with the intent to utter a forged prescription or sell or transfer the prescription blank to another person for that purpose.
(3) A person is guilty of trafficking in prescription blanks when he knowingly and unlawfully traffics in a prescription blank or a forged prescription for a controlled substance.
(4) The knowing, with intent to violate this chapter, possession of a prescription blank by a person other than a pharmacist, practitioner, or other person authorized by law to prescribe or dispense a controlled substance, a manufacturer, wholesaler, or distributor, or by a person lawfully printing or reproducing prescription blanks, shall be prima facie evidence that the prescription blank was possessed for the purpose of uttering a forged prescription or for sale or transfer to another person for that purpose.
(5) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

KRS 218A.288 Seizure of unlawful prescription

(1) A pharmacist, practitioner, or other person authorized by law to dispense controlled substances, or an employee of that person, may seize and retain any prescription which he has reasonable suspicion for believing is forged, altered, or deceitful in violation of KRS 218A.140, 218A.282, or 218A.284.
(2) Seizure and retention shall be for a reasonable period of time to make reasonable inquiry as to whether the prescription is forged, altered, or deceitful.
(3) If after reasonable inquiry the pharmacist, practitioner, or other person determines that the prescription is forged, altered, or deceitful, he shall report the seizure to a law enforcement officer and shall surrender the prescription to the officer upon the request of the officer.

KRS 218A.310 Title for chapter

This chapter may be cited as the Kentucky Controlled Substances Act of 1972.

KRS 218A.350 Prohibited practices concerning substances that simulate controlled substances – Penalties

(1) No person shall sell or transfer any substance, other than a controlled substance, with the representation or upon creation of an impression that the substance which is sold or transferred is a controlled substance.
(2) No person shall possess for sale or transfer any substance designed in any manner, including but not limited to design of the item or its container, markings, or color, to simulate a controlled substance.
(3) No person shall possess for sale or transfer any substance, not covered by subsection (2) of this section which is not a controlled substance with the representation or upon the creation of an impression that the substance held for sale or transfer is a controlled substance.

(4) No person shall manufacture, package, repackage, advertise, or mark any substance, which is not a controlled substance, in such a manner as to resemble a controlled substance, for the purpose of creating the impression that the substance is a controlled substance.

(5) For the purpose of determining whether this section has been violated, the court or other authority shall include in its consideration the following:
   (a) Whether the noncontrolled substance was packaged in a manner normally used for the illegal sale of controlled substances;
   (b) Whether the sale or attempted sale included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable value of the noncontrolled substance.
   (c) Whether the physical appearance of the noncontrolled substance is substantially identical to that of a controlled substance.

(6) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the noncontrolled substance to actually be a controlled substance.

(7) Any person who violates any of the provisions of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

FORFEITED PROPERTY

KRS 218A.405 Definitions for KRS 218A.405 to 218A.460

The following definitions apply in KRS 218A.405 to 218A.460, unless the context otherwise requires:

(1) "Interest in property" includes:
   (a) The interest of a person as a beneficiary under a trust, in which the trustee of the trust holds legal or record title of the personal or real property;
   (b) The interest of a person or a beneficiary under any other trust arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person; or
   (c) The interest of a person under any other form of express fiduciary arrangement under which any other person holds legal or record title to personal or real property for the benefit of the person.
   (d) Real property or an interest in real property shall be deemed to be located where the real property is located. Personal property or an interest in personal property shall be deemed to be located where the trustee is located, the personal property is located, or the instrument evidencing the right is located.

(2) "Forfeiture lien notice" means the notice provided for in KRS 218A.450.

(3) "Property" means everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, easements, franchises, incorporeal hereditaments, or any interest therein.

(4) "Real property" means any real property located in the Commonwealth or any interest in real property, including any lease of, or mortgage upon, real property.

(5) "Trustee" includes:
   (a) Any person acting as trustee under a trust in which the trustee holds legal or record title to personal or real property;
   (b) Any person who holds legal or record title to personal or real property in which any other person has an interest; or
   (c) Any successor trustee.

   The term "trustee" shall not include an assignee or trustee for an insolvent debtor, a guardian under the Uniform Veterans' Guardianship Act, or an executor, administrator,

administrator with will annexed, testamentary trustee, curators, guardians, or committees, appointed by, or under control of, or accountable to a District Court.

KRS 218A.410 Property subject to forfeiture

(1) The following are subject to forfeiture:
   (a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.
   (b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.
   (c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.
   (d) All substances, machinery, or devices used for the manufacture, packaging, repackaging, or marking, and books, papers, and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale, or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.
   (e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held, or acquired in violation of this chapter.
   (f) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.
   (g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.
   (h) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:
      1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
      2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;
      3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;
      4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to the exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin, and currency found in close proximity to controlled substances, to drug manufacturing or distributing paraphernalia, or to records of the importation, manufacture, or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof shall be upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof shall be upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.

(k) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this chapter excluding any misdemeanor offense relating to marijuana, except that property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by the Commonwealth to have been committed or omitted with the knowledge or consent of the owner.

(2) Title to all property, including all interests in the property, forfeit under this section vests in the Commonwealth on the commission of the act or omission giving rise to forfeiture under this section together with the proceeds of the property after the time. Any property or proceeds subsequently transferred to any person shall be subject to forfeiture and thereafter shall be ordered forfeited, unless the transferee establishes in the forfeiture proceeding that he is a subsequent bona fide purchaser for value without actual or constructive notice of the act or omission giving rise to the forfeiture.

(3) If any of the property described in this section cannot be located; has been transferred to, sold to, or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value by any act or omission of the defendant; or, has been commingled with any property which cannot be divided without difficulty, the court shall order the forfeiture of any other property of the defendant up to the value of any property subject to forfeiture under this section.

KRS 218A.415 Procedure for seizure of property

(1) Personal property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any judge that is empowered to issue a warrant of arrest or search warrant and in whose jurisdiction the property is located. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property is subject to forfeiture pursuant to this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but shall be deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(3) Real property subject to forfeiture may be seized only pursuant to final judgment and order of forfeiture or upon order of the court having jurisdiction over the property. The order may be obtained pursuant to this subsection upon application of the Commonwealth.

(a) Upon receipt of the application, the court shall immediately enter an order setting a date for hearing on the matter no fewer than five (5) days nor more than ten (10) days after the filing of the application. At the hearing:

* * * * * * *

(b) A temporary seizure order pursuant to this section may be entered on application without notice or an opportunity for a hearing if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to forfeiture and the need to preserve the availability of property through immediate seizure outweighs the hardship that an immediate seizure may cause the owner. The temporary order shall expire ten (10) days after the date on which it is entered or at the time of the hearing provided for in paragraph (a) of this subsection.

KRS 218A.420 Procedure for disposal of seized and forfeited property – Distribution of proceeds

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

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KRS 218A.425 Valuation of property retained for official use

When seized property is retained for official use by law enforcement agencies under this chapter the value of the property shall be determined as follows:

(1) Vehicles shall be valued at their tax value;

(2) All other property shall be valued at its fair cash value by the property valuation administrator;

(3) Property shall be valued as of the time of sale by the law enforcement agency.

KRS 218A.500 Definitions for KRS 218A.500 and 218A.510 – Unlawful practices – Penalties

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
(5) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

KRS 218A.510 Factors to be considered in determining whether object is drug paraphernalia

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
(1) Statements by an owner or by anyone in control of the object concerning its use;
(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
(3) The proximity of the object, in time and space, to a direct violation of KRS 218A.500 (2), (3) or (4);
(4) The proximity of the object to controlled substances;
(5) The existence of any residue of controlled substances on the object;
(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of KRS 218A.500(2), (3) or (4); the innocence of an owner, or of anyone in control of the object, as to a direct violation of KRS 218A.500(2), (3) or (4) shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
(7) Instructions, oral or written, provided with the object concerning its use;
(8) Descriptive materials accompanying the object which explain or depict its use;
(9) National and local advertising concerning its use;
(10) The manner in which the object is displayed for sale;
(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
(12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
(13) The existence and scope of legitimate uses for the object in the community;
(14) Expert testimony concerning its use.

PENALTIES

KRS 218A.991 Revocation or denial of operator's license

(1) Whenever a person who is seventeen (17) years of age or younger but not less than fourteen (14) years of age is convicted of a violation of any offense in this chapter or is adjudicated delinquent as a result of any act which would be an offense under this chapter, the court may, in addition to any other penalty:
   (a) If the person has a motor vehicle or motorcycle operator's license, recommend the revocation of the license for a period not to exceed one (1) year, if it is the person's first offense;
   (b) If the person has a motor vehicle or motorcycle operator's license, recommend the revocation of the license for two (2) years, if it is a second or subsequent offense so long as the suggested period of revocation does not extend beyond the person's eighteenth birthday; and
   (c) If the person has no motor vehicle or motorcycle operator's license, in the event of a first offense, recommend that no such license shall be issued to such person for the period described in paragraph (a) of this subsection and in the event of a second or subsequent offense, recommend that no license shall be issued to such person for the period described in paragraph (b) of this subsection.

* * * * * * *

(5) Revocations of operator's licenses and denials of licenses pursuant to this section shall be in addition to any other suspension, revocation, or denial of motor vehicle or motorcycle operator's licenses authorized by law.

KRS 218A.992 Enhancement of penalty when in possession of a firearm at the time of commission of offense

(1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who was at the time of the commission of the offense in possession of a firearm, shall:
   (a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or
   (b) Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.
(2) The provisions of this section shall not apply to a violation of KRS 218A.210.

KRS 218A.993 Penalty for chapter provisions without a specific penalty

Any person who violates any provision of this chapter for which a specific penalty is not otherwise provided shall be guilty of a Class B misdemeanor.

KRS 218A.994 Applicability of penalties in KRS Chapter 506 to this chapter

Unless this chapter provides a specific penalty for the same act, the provisions of KRS Chapter 506 shall apply to offenses under this chapter.

KRS CHAPTER 222

KENTUCKY ALCOHOL AND OTHER DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT LAW

(Selected Sections)

KRS 222.201 Definition

As used in KRS 222.202 to 222.204, 222.990(3) to (5), "**public place**" shall have the same meaning as it does in KRS 525.010, provided that for violations of KRS 222.202(2) the definition shall not include any public place where a license under KRS Chapter 243 to sell distilled spirits, wine or beer by the drink has been obtained.

KRS 222.202 Offenses of alcohol intoxication or drinking alcoholic beverages in a public place

1 **Penalty:** KRS 222.990(3) 2 **Penalty:** KRS 222.990(4)

(1) A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.
(2) A person is guilty of drinking alcoholic beverages in a public place when he drinks an alcoholic beverage in a public place, or in or upon any passenger coach, or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, or waiting room.

KRS 222.203 Arrest – Citation – Jail – Bail – Pretrial release

(1) A peace officer may make an arrest for a violation of KRS 222.202.
(2) Any peace officer who arrests a person for violation of KRS 222.202 shall take him to jail. A peace officer may issue a citation and may take the person to a facility authorized by county or city ordinance agreeing to care for the person. If the person is jailed, at the jail it shall be determined if the person has committed a previous offense under KRS 222.202.
(3) A citation shall be issued to such person showing thereon the date of such person's appearance in court and whether the offense is prepayable or not.
(4) Unless it has been determined that the defendant has had two (2) prior convictions for violation of KRS 222.202 within the previous twelve (12) months, the citation shall be marked as prepayable.
(5) If it is determined that this is a third or subsequent offense, then the provisions of KRS Chapter 431 with regard to bail and pretrial release shall apply.

KRS 222.204 Conditions of bail – Liability of facility releasing defendant

(1) A person who has been arrested and placed in jail prior to trial for violation of KRS 222.202 and has not had two (2) prior convictions in the previous twelve (12) months for violation of KRS 222.202 shall be released as set forth by the Supreme Court Rule of Criminal Procedure uniform schedule of bail:
    (a) To an adult who is willing to accept responsibility for the defendant through a signature verification on a form determined by the Administrative Office of the Courts;
    (b) If he pays the requisite amount of bail on a bail schedule issued by the court;
    (c) At such time as he is able to safely care for himself but in no event shall he be detained for more than eight (8) hours following his arrest;
    (d) If he is ordered released by a court of competent jurisdiction; or

(e) Unless such person's release is precluded by other provisions of law.

(2) The jail or facility authorized by county or city ordinance agreeing to care for the person releasing the defendant shall be considered as acting in good faith and shall not be liable for subsequent acts of the defendant upon release.

KRS 222.990 Penalties

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(3) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less than twenty-five dollars ($25).

(4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.

(5) In addition to any other penalty prescribed by law for violation of subsections (1) and (2) of KRS 222.202, the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

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

KRS 235.240 Prohibition of operation of boat negligently or while intoxicated or drugged – Consent to test for alcohol or drugs – Elements of operation under influence of alcohol or other substance

Penalty: KRS 235.990(2)

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(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010 (1) to (4), except that the penalties for this offense are set forth in KRS 235.990.

KRS 235.990 Penalties

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(2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS Chapter 189A but shall be guilty of a separate offense and subject to a fine of one hundred dollars ($100) to two hundred fifty dollars ($250) for the first offense, a fine of two hundred fifty dollars ($250) to five hundred dollars ($500) for the second offense, and a fine of five hundred dollars ($500) to one thousand dollars ($1,000) or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.

(3) A person may, in addition or in lieu of the penalties specified in subsection (1) or (5) of this section and in addition to the penalties of subsection (2) of this section, be required to take a safe-boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or United States Power Squadron and to present the court a certificate documenting successful completion of the course.

* * * * *

KRS 235.9995 Prepayment of fines subject to certain conditions

(1) All offenses classified as violations under this chapter shall be prepayable except for:
   - (a) Violations of KRS 235.240 and 235.285;
   - (b) An offense where evidence of the commission of the offense or another offense was seized and the citation is so marked and a court date set;
   - (c) The offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or
   - (d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

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FIREARMS AND DESTRUCTIVE DEVICES

(Selected Sections)

KRS 237.030 Definitions for KRS 237.040 and 237.050

(1) "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device and includes the unassembled components from which such a device can be made.
(2) "Booby trap device" includes any device, or substance designed to surreptitiously or covertly take life, endanger life or destroy or damage property and shall not include firearms.

KRS 237.040 Criminal possession of destructive device or booby trap device Penalty KRS 237.990

A person is guilty of criminal possession of a destructive device or a booby trap device when he possesses, manufactures, or transports such substance or device with:
(1) Intent to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States; or
(2) Knowledge that some other person intends to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States.
(3) Mere possession without substantial evidence of the requisite intent is insufficient to bring action under KRS 237.030 to 237.050.

KRS 237.050 Exemptions

KRS 237.030 to 237.050 shall not apply to:
(1) Destructive devices or booby trap devices which are possessed by the government of the United States, this state, or a political subdivision thereof;
(2) Any device which is lawfully possessed under the Gun Control Act of 1968, the Organized Crime Control Act of 1971, or any other law of the United States or this state, unless a crime is committed therewith;

EDITOR'S NOTES:

- *Gun Control Act of 1968: codified as 18 U.S.C. (United States Code) §§ 921 to 928; and 26 U.S.C. §§ 5801, 5802, 5811, 5812, 5821, 5822, 5841 to 5849, 5851 to 5854, 5861, 5871, 5872, 6806, 7273.*
- *Organized Crime Control Act of 1971: codified as 18 U.S.C. § 1961.*

(3) Nonlethal devices placed on the premises of the owner or the lawful occupant thereof for his own self-protection or the protection of the said property;
(4) The setting of traps suitable and legal for the taking of game by persons licensed or permitted to do so by the game laws of the Commonwealth;
(5) Inert devices which cannot readily be restored to operating condition; or
(6) The acquisition, possession, use, or control of firearms.

KRS 237.060 Definitions for KRS 237.060 to 237.090 and certain other sections

The following definitions apply in KRS 237.060 to 237.090 and KRS 197.170, 218A.992, 244.125, 244.990, and 514.110, unless the context otherwise requires:
(1) "Handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.
(2) "Firearm" means any weapon which will expel a projectile by the action of an explosive.

(3) "Licensed gun dealer" means a person who has a federal firearms license and any business license required by a state or local government entity.
(4) "Loaded" with respect to a firearm means:
  (a) There is ammunition in the chamber of the firearm; or
  (b) There is ammunition in the cylinder of the firearm; or
  (c) There is ammunition in the magazine of a firearm, if the magazine is attached to the firearm.
(5) "Juvenile" means a person who has not attained his eighteenth birthday.
(6) "Ammunition" means loaded ammunition designed for use in any firearm.
(7) "Armor-piercing ammunition" means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one (1) or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. "Armor piercing ammunition" does not include shotgun shot required by federal or state environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary of the Treasury of the United States finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary of the Treasury of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.
(8) "Flanged ammunition" means ammunition with a soft lead core and having sharp flanges which are designed to expand on impact.

KRS 237.070 Prohibition against sale or transfer of firearm to convicted felon

(1) No person shall knowingly sell or transfer a firearm to any person prohibited from possessing it by KRS 527.040 *[Possession of firearm by convicted felon]*.
(2) Any person who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor.
(3) Any firearm transferred in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

KRS 237.080 Prohibition against manufacture, sale, delivery, transfer, or importation of armor piercing ammunition – Exceptions

(1) It shall be unlawful for any person to knowingly manufacture, sell, deliver, transfer, or import armor-piercing ammunition.
(2) Subsection (1) of this section shall not apply to members of the Armed Forces of the United States or law enforcement officers within the scope of their duties, nor shall it prohibit licensed gun dealers from possessing armor-piercing ammunition for the purpose of receiving and transferring it to members of the Armed Forces of the United States, or law enforcement officers for use within the scope of their duties.
(3) A violation of subsection (1) of this section shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
(4) Any armor-piercing ammunition transferred, sold, or offered for sale, in violation of this section is contraband and shall be seized and summarily forfeited to the state and shall be disposed of pursuant to KRS 237.090.

KRS 237.090 Disposition of forfeited firearm or ammunition

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be disposed of or retained as provided in KRS 500.090.

KRS 237.095 Persons barred by federal law from purchase of firearms – Duty to notify courts and law enforcement agencies of purchase or attempt to purchase – Protocol for providing notice – Duty to notify petitioner – Immunity from liability

(1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:
   (a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and
   (b) The law enforcement agencies, as designated by the Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.
(2) The Kentucky State Police shall develop a protocol for providing notice to the required court and law enforcement agencies under subsection (1) of this section. Within the protocol, the Kentucky State Police shall designate which local law enforcement agencies are to receive notice in each county. A minimum of one (1) law enforcement agency shall be designated in each county.
(3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.
(4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.
(5) This section shall apply only to domestic violence orders issued, or reissued, on or after July 14, 2000.

KRS 237.106 Restrictions on employers or property owners

(1) No person, including but not limited to an employer, who is the owner, lessee, or occupant of real property shall prohibit any person who is legally entitled to possess a firearm from possessing a firearm, part of a firearm, ammunition, or ammunition component in a vehicle on the property.
(2) A person, including but not limited to an employer, who owns, leases, or otherwise occupies real property may prevent a person who is prohibited by state or federal law from possessing a firearm or ammunition from possessing a firearm or ammunition on the property.
(3) A firearm may be removed from the vehicle or handled in the case of self-defense, defense of another, defense of property, or as authorized by the owner, lessee, or occupant of the property.
(4) An employer that fires, disciplines, demotes, or otherwise punishes an employee who is lawfully exercising a right guaranteed by this section, and who is engaging in conduct in compliance with this statute shall be liable in civil damages. An employee may seek and the court shall grant an injunction against an employer who is violating the provisions of this section when it is found that the employee is in compliance with the provisions of this section.

(5) The provisions of this section shall not apply to any real property:
   (a) Owned, leased, or occupied by the United States government upon which the possession or carrying of firearms is prohibited or controlled;
   (b) Of a detention facility as defined in KRS 520.010; or
   (c) Where a section of the Kentucky Revised Statutes specifically prohibits possession or carrying of firearms on the property.

KRS 237.110 License to carry concealed deadly weapon -- Criteria -- Suspension or revocation -- Renewal -- Prohibitions -- Reciprocity -- Reports – Requirements for training classes.

(1) The Department of State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
(2) An original or renewal license issued pursuant to this section shall:
   (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth.
   (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
   (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
   (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.

* * * * *

(10) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky federal, and other state's law enforcement agencies. . . . . Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law.
(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of State Police of the loss, theft, or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. , , , ,
(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may , , , obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost, stolen, or destroyed.
(13) (a) The commissioner of the Department of State Police, or his designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
   (b) The commissioner of the Department of State Police, or his designee in writing,

shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.

(c) Upon the suspension or revocation of a license, the commissioner of the Department of State Police, or his designee in writing, shall:
   1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
   2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.

* ** **

(h) If the license is not surrendered as ordered, the commissioner of the Department of State Police shall order a peace officer to seize the license and deliver it to the commissioner.

(i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.

* * * * *

(k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

* * * * *

(15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court, but no court costs shall be assessed.

(16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
   (a) Any police station or sheriff's office;
   (b) Any detention facility, prison, or jail;
   (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
   (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
   (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

* * * * *

(20) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

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KRS 237.115 Construction of KRS 237.110 – Prohibition by local government units of carrying concealed deadly weapons in governmental buildings – Restriction on criminal penalties

(1) Nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban- county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.

(2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

(3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

KRS 237.990 Penalties

(1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be guilty of a Class D felony.

(2) Any person who violates any of the provisions of KRS 237.030 to 237.050, and in so doing uses any destructive device or booby trap device to avoid detection by law enforcement or other government personnel or to avoid theft or detection by any other person, of any controlled substance as set forth in KRS Chapter 218A and held in violation of KRS 218A.140, shall be guilty of a Class C felony.

KRS CHAPTER 244

ALCOHOLIC BEVERAGES; PROHIBITIONS, RESTRICTIONS, AND REGULATIONS

(Selected Sections)

ALCOHOLIC BEVERAGES GENERALLY

KRS 244.080 Retail sales to certain persons prohibited – Affirmative defense in prosecution for selling to a minor

Penalty: KRS 244.990(1)

A retail licensee shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, or delivered to:

(1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(2) A person actually or apparently under the influence of alcoholic beverages.

(3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(4) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony.

KRS 244.085 Minors not to possess or purchase liquor nor to misrepresent age – Use of fraudulent identification – Prohibition against minors remaining on premises where alcoholic beverages sold

Penalty: KRS 244.990(4) 5 Penalty: KRS 244.990(5)

(1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age

to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

(a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, distillery or brewery or winery tour, establishment where prebooked concerts with advance ticket sales are held, or any facility in which there is maintained in inventory on the premises for sale at retail no less than five thousand dollars ($5,000) of food, groceries, and related products valued at cost. For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;

(b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or

(c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing.

(7) Except as provided in subsection (6) of this section, a licensee or his or her agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(9) A violation of subsections (2), (3), (4), (5) or (8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) years and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

KRS 244.125 Prohibition against possession of loaded firearm in room where alcoholic beverages are being sold by the drink

Penalty: KRS 244.990(6)

(1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.

(2) This section shall not apply to the owner manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.

(3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives at least fifty percent (50%) of its gross annual income from the dining facilities by the sale of food.

(4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.

(5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

KRS 244.990 Penalties

(1) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
(2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction he or she shall be guilty of a Class D felony. Upon the third and each subsequent conviction, he or she shall be guilty of a Class C felony.
(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.
(4) Except as provided in subsection (7) or this section, any person, firm, or corporation violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.
(5) Except as provided in subsection (7) or this section, any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.
(6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
(7) For any person under the age of eighteen (18) years, a violation of subsections (2), (3), (4), (5), or (8) of Section 22 of this Act shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

OFFENSES AGAINST THE STATE AND PUBLIC JUSTICE

(Selected Sections)

KRS 432.570 Restrictions on possession or use of radio capable of sending or receiving police messages – Penalty – Enforcement

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers. It shall be unlawful for any car, automobile, or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for the car, to have, or be equipped with the sets or apparatus even though the car is owned by an officer. This section shall not apply to any automobile or vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the Federal Communications Commission or other federal agency having the authority to license same. Nothing in this section shall preclude a probation and parole officer employed by the Department of Corrections from carrying on his person or in a private vehicle while conducting his official duties an authorized, state-issued portable radio apparatus capable of transmitting or receiving signals.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited, or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited, or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

   (a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;

   (b) A commercial or educational radio or television station, licensed by the Federal Communications Commission, at its place of business; or

   (c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; emergency management agency personnel authorized in writing by the director of the division of emergency management (for state personnel) or chief executive of the city or county (for their respective personnel); a person holding a valid license issued by the Federal Communications Commission in the amateur radio service; peace officers authorized in writing by the head of their law enforcement agency,

Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

(5) The provisions of this section shall not apply to a paid or volunteer member of a fire department or a paid or volunteer member of a public ambulance service licensed in Kentucky who has been given permission in writing by the chief of the fire department and the chief of each law enforcement agency whose frequency is to be monitored, or the director of the ambulance service and the chief of each law enforcement agency whose frequency is to be monitored, to possess a radio capable of receiving on a frequency allocated to a police department or law enforcement agency, whether the radio is in a vehicle or not.

(6) The secretary of the Finance and Administration Cabinet is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other nonpolice persons for utilization in the N.O.A.A. weather radio system.

KRS CHAPTER 433
OFFENSES AGAINST PROPERTY BY FORCE
(Selected Sections)

KRS 433.234 Shoplifting

(1) Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of an intent to deprive the owner of his property without paying the purchase price therefor.

(2) All city and county law enforcement agencies shall cause to be made a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested for theft through an act of shoplifting. If convicted, two (2) copies of each item shall be forwarded within thirty (30) days to the Department of State Police of the Justice Cabinet.

KRS 433.236 Detention and arrest of shoplifting suspect

(1) A peace officer, security agent of a mercantile establishment, merchant or merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person may take the person into custody and detain him in a reasonable manner for a reasonable length of time, on the premises of the mercantile establishment or off the premises of the mercantile establishment, if the persons enumerated in this section are in fresh pursuit, for any or all of the following purposes:
   (a) To request identification;
   (b) To verify such identification;
   (c) To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise, and to make reasonable investigation of the ownership of such merchandise;
   (d) To recover or attempt to recover goods taken from the mercantile establishment by such person, or by others accompanying him;
   (e) To inform a peace officer or law enforcement agency of the detention of the person and to surrender the person to the custody of a peace officer, and in the case of a minor, to inform the parents, guardian, or other person having custody of that minor of his detention, in addition to surrendering the minor to the custody of a peace officer.

(2) The recovery of goods taken from the mercantile establishment by the person detained or by others shall not limit the right of the persons named in subsection (1) of this section to detain such person for peace officers or otherwise accomplish the purposes of subsection (1).

(3) Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.

KRS 433.750 Injuring public property or right of way

Any person who picks, pulls, digs, tears up, cuts, breaks, burns or otherwise damages any tree, shrub, flower, vine, bush or turf on the right of way of any state highway or county road or upon any land set aside, dedicated or maintained by this state as a public park or as a refuge or sanctuary for wild animals, birds or fish, without having first obtained permission in writing of the engineer having charge of the maintenance of the highway, or the superintendent or custodian of the park, refuge or sanctuary shall be fined not less than $25 nor more than $300.

KRS 433.753 Criminal littering on public highway – Rewards for information

(1) When any paper, waste material, litter or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.
(2) It shall be the duty of the Kentucky State Police, county sheriffs and police officers, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws.
(3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of criminal littering.

KRS 433.757 Littering public waters – Reward for information

(1) When any litter as defined in KRS 512.010 is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated KRS 512.070.
(2) It shall be the duty of officers of the Department of Fish and Wildlife Resources as provided in KRS 235.010 and KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of KRS 512.070.
(3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm, or corporation for a violation of KRS 512.070.

KRS CHAPTER 434

OFFENSES AGAINST PROPERTY BY FRAUD

(Selected Sections)

CREDIT OR DEBIT CARD CRIMES

EDITOR'S NOTE:

The following sections relating to or creating criminal offenses have been deleted as not usually enforced by street officers:

KRS 434.570	*False statement as to identity or financial condition*
KRS 434.610	*Control over card as security for debt*
KRS 434.640	*Unauthorized signature*
KRS 434.655	*Fraudulent use of credit or debit card after reporting it lost, as stolen, or not received*
KRS 434.660	*Fraud by authorized persons, business organization, or financial institution*
KRS 434.670	*Failure to furnish goods, services, etc., represented in writing as furnished*
KRS 434.675	*Use of a scanning device or reencoder to obtain payment card information prohibited*
KRS 434.685	*Misuse of electronic information prohibited*
KRS 434.715	*Criminal or civil liability prohibited for false arrest or false imprisonment where prima facie evidence of fraud exists and proper notice is given*

KRS 434.550 Citation of KRS 434.550 to 434.730

KRS 434.550 to 434.730 may be cited as the Credit and Debit Card Crime Act.

KRS 434.560 Definitions for KRS 434.550 to 434.730

As used in KRS 434.550 to 434.730, unless the context otherwise requires:

(1) "Automated banking device" means any machine which when properly activated by a credit card, debit card or personal identification code will perform any of the following services:
   (a) Dispense money as a debit to the cardholder's savings or checking account; or
   (b) Print the cardholder's savings or checking account balances on a statement; or
   (c) Transfer funds between a cardholder's savings and checking account; or
   (d) Accept payments on a cardholder's loan; or
   (e) Dispense cash advances on an open end credit or a revolving charge agreement; or
   (f) Accept deposits to a customer's savings or checking account; or
   (g) Receive inquiries of verification of checks and dispense information which verifies that funds are available to cover said checks; or
   (h) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization;

(2) "Cardholder" means the person or organization named on the face of a credit or debit card to whom or for whose benefit the credit or debit card is issued by an issuer;

(3) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit;

(4) "Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services and anything else of value, payment of which is made against funds previously deposited by cardholder;
(5) "E.F.T. system" means an electronic funds transfer system whereby funds are transferred electronically from a cardholder's account to any other account;
(6) "Expired credit card" means a credit card which is no longer valid because the term shown on it has expired;
(7) "Expired debit card" means a debit card which is no longer valid because the term shown on it has expired;
(8) "Issuer" means the business organization or financial institution which issues a credit or debit card or its duly authorized agent;
(9) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. "Merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person;
(10) "Participating party" means a business organization or financial institution, or any duly authorized agent of such business organization or financial institution, which is obligated by contract to acquire from a person, business organization or financial institution providing money, goods, services or anything else of value, a sales slip, sales draft or other instrument evidencing a credit or debit card transaction and from whom the issuer is obligated by contract to acquire or participate in such sales slip, sales draft or other instrument;
(11) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant;
(12) "Presentation or presents" as used herein shall be construed to define those actions taken by a cardholder or any person to introduce a credit or debit card into an automated banking device or merely displaying or showing a credit or debit card to the issuer, a person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud;
(13) "Receives" or "receiving" means acquiring possession or control of a credit or debit card;
(14) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card;
(15) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer;
(16) "Revoked debit card" means a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer; and
(17) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

KRS 434.580 Theft – Receipt of stolen credit or debit card – Presumption

(1) A person who takes a credit or debit card from the person, possession, custody or control of another without the consent of the cardholder or of the issuer or who, with

knowledge that it has been so taken, receives the credit or debit card with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730. Taking a credit or debit card without consent includes obtaining it by conduct defined or known as statutory larceny, common-law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses, false promise or extortion.

(2) A person who has in his possession or under his control two (2) or more credit or debit cards which have been taken or obtained in violation of subsection (1) of this section is presumed to know that the credit or debit cards have been so taken or obtained.

KRS 434.590 Receipt of credit or debit card lost, mislaid, or delivered by mistake, with intent to use or transfer

Penalty: KRS 434.730(1)

A person who receives a credit or debit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730.

KRS 434.600 Sale by or purchase from person other than issuer

Penalty: KRS 434.730(2)

A person other than the issuer who sells a credit or debit card or a person who buys a credit or debit card from a person other than the issuer is guilty of a Class D felony.

KRS 434.620 Receipt of card in violation of KRS 434.570 to 434.610

A person, other than the issuer, who receives a credit or debit card which he knows was obtained, taken, or retained under circumstances which constitute a violation of KRS 434.570 to 434.610 is guilty of a Class D felony.

KRS 434.630 False making or embossing of credit or debit card – Possession of two or more falsely made or embossed cards – Definitions

(1) A person who, with intent to defraud a purported issuer, a participating party, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit or debit card, or utters such a credit or debit card or possesses such a credit or debit card with knowledge that such credit or debit card has been falsely made or falsely embossed is guilty of a Class D felony.

(2) A person other than the purported issuer who possesses two (2) or more credit or debit cards which are falsely made or falsely embossed is presumed to possess the same with knowledge that they have been falsely embossed or falsely made and with the intent to defraud.

(3) A person "falsely makes" a credit or debit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit or debit card of a named issuer but which is not such a credit or debit card because the issuer did not authorize the making or drawing, or alters a credit or debit card which was validly issued. A person "falsely embosses" a credit or debit card when, without the authorization of the named issuer, he completes a credit or debit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit or debit card before it can be used by a cardholder.

KRS 434.650 Fraudulent use – Presumption as to knowledge of revocation

(1) A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:
   (a) Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked; or
   (b) Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or
   (c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or
   (d) Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his lawful or legal property,

   is guilty of a Class A misdemeanor, if the value of all money, goods, services, or other things of value obtained in violation of this section does not exceed one hundred dollars ($100) in any six (6) month period; and is guilty of a Class D felony if such value exceeds one hundred dollars ($100) in any six (6) month period.

(2) A person who receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

KRS 434.680 Unauthorized production or reproduction of credit or debit card – Definition – Presumption as to possession of incomplete card

(1) A person other than the cardholder possessing an incomplete credit or debit card, or possessing a purported distinctive element of a credit or debit card, with intent to complete such incomplete credit or debit card or to utilize such purported distinctive element in the production or reproduction of any credit or debit card without the consent of the issuer, or a person possessing, with knowledge of its character, a distinctive element of any credit or debit card or any machinery, plates, or any contrivance designed to produce or reproduce instruments purporting to be the credit or debit cards, or a distinctive element of the credit or debit cards, of an issuer or of any issuer in a

group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group, who has not consented to the production or reproduction of such card, is guilty of a Class D felony. A credit or debit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer or any issuer in a group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group, requires to appear on the credit or debit card before it can be used by the cardholder has not yet been stamped, embossed, imprinted, or written on it. A "distinctive element" of a credit or debit card is any material or component used in the fabrication of credit or debit cards which, by virtue of such element's chemical or physical composition, color, or design, is unique to the credit or debit cards issued by a particular issuer or group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group.

(2) A person other than the cardholder or issuer who possesses two (2) or more incomplete credit or debit cards is presumed to possess the same without the consent of the issuer and with the intent to complete them.

KRS 434.695 Use of false, fictitious, unauthorized, or counterfeit card prima facie evidence of knowledge

The presentation or use of a false, fictitious, unauthorized or counterfeit, credit or debit card, or other credit or debit device for the purpose of obtaining money, goods, services or anything else of value shall be prima facie evidence of knowledge that the said credit or debit device is false, fictitious, counterfeit, or its use is unauthorized.

KRS 434.700 Prosecutions

In any prosecution for violation of KRS 434.550 to 434.730, the Commonwealth is not required to establish and it is no defense that:

(1) A person other than the defendant who violated KRS 434.550 to 434.730 has not been convicted, apprehended, or identified; or

(2) Some of the acts constituting the crime did not occur in Kentucky or were not a crime or elements of a crime where they did occur.

KRS 434.710 Sufficiency of evidence as to presumptions

When KRS 434.550 to 434.730 establishes a presumption with respect to any fact which is an element of a crime, it has the following consequences:

(1) When there is sufficient evidence of the facts which give rise to the presumption to go to the jury, the issue of the existence of the presumed facts must be submitted to the jury, unless the court is satisfied that the evidence as a whole clearly negatives the presumed facts; and

(2) When the issue of the existence of the presumed fact is submitted to the jury, the court shall charge that while the presumed fact, must, on all the evidence, be proven beyond a reasonable doubt, the law declares that the jury may regard the facts giving rise to the presumption as sufficient evidence of the presumed fact.

KRS 434.720 Construction of KRS 434.550 to 434.730

KRS 434.550 to 434.730 shall not be construed to preclude the applicability of any other provision of the criminal law of this Commonwealth which presently applies or may in the future apply to any transaction which violates KRS 434.550 to 434.730, unless such provision is inconsistent with the terms of KRS 434.550 to 434.730.

KRS 434.730 Penalties

(1) A person who has violated KRS 434.590 shall be guilty of a Class A misdemeanor.
(2) A person who has violated KRS 434.600 shall be guilty of a Class D felony.
(3) A person who has violated KRS 434.675 shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
(4) A person who has violated KRS 434.560 shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

UNLAWFUL ACCESS TO A COMPUTER

KRS 434.840 Definitions

For the purposes of KRS 434.840 to 434.860, the following words, including any form of the word, and terms shall have the following meanings:

(1) "Access" means to approach, instruct, communicate with, manipulate, store data in, retrieve or intercept data from, or otherwise make use of any resources of, a computer, computer system, or computer network;
(2) "Computer" means any device, equipment, or facility that uses a computer program or other instructions, stored either temporarily or permanently, to perform specific operations including but not limited to logical, arithmetic, or memory functions with or on data or a computer program that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network;
(3) "Computer network" means an interconnection of two (2) or more devices used for the purpose of transmitting any combination of voice, video, or data including but not limited to bridges, routers, switches, antennas, or towers connected by hardwire or wireless communications lines;
(4) "Computer program" means a set of instructions or statements and related data that, when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions;
(5) "Computer software" means computer programs, procedures, or associated documentation concerned with the operation of a computer, computer system, or computer network for system control or processing of data;
(6) "Computer system" means a set of related computer equipment, devices, data, software, or hardware that is designed to perform a specific function;
(7) "Data" means a representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared in a formalized manner, and is intended to be stored or processed, or is being stored or processed, or has been stored or processed, in a computer, computer system, or computer network;
(8) "Device" includes but is not limited to an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses;
(9) "Effective consent" means consent by a person legally authorized to act for the owner. Consent is not effective if it is:
    (a) Induced by deception or coercion;
    (b) Given by a person who the actor knows is not legally authorized to act for the owner;
    (c) Given by a person who by reason of age, mental disease or defect, or intoxication is known by the actor to be unable to make responsible property or data dispositions; or
    (d) Used for a purpose other than that for which the consent is given;

(10) "Financial instruments" includes but is not limited to any check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any electronic representation thereof;
(11) "Intellectual property" includes data, text, images, sound, codes, computer programs, software, or databases which may be in any form, including but not limited to, computer printouts, magnetic storage media, punched cards, or which may be stored internally in the memory of a computer;
(12) "Loss or damage" means the result of accessing, attempting to access, or causing to be accessed, without effective consent, any computer software, computer program, data, computer, computer system, computer network, or any part thereof, including but not limited to theft, alteration, or destruction of data, security breaches, or disruption of services;
(13) "Owner" means a person who has title, license, or other lawful possession of the property, a person who has the right to restrict access to the property, or a person who has a greater right to possession of the property than the actor;
(14) "Property" includes but is not limited to intellectual property, financial instruments, data, computer programs, documentation associated with data, computers, computer systems and computer programs, all in machine-readable or human-readable form, and any tangible or intangible item of value; and
(15) "Services" includes but is not limited to the use of a computer, a computer system, a computer network, computer software, computer program, or data to perform tasks.

KRS 434.845 Unlawful access to a computer in the first degree

(1) A person is guilty of unlawful access to a computer in the first degree when he or she, without the effective consent of the owner, knowingly and willfully, directly or indirectly accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, for the purpose of:
    (a) Devising or executing any scheme or artifice to defraud; or
    (b) Obtaining money, property, or services for themselves or another by means of false or fraudulent pretenses, representations, or promises.
(2) Unlawful access to a computer in the first degree is a Class C felony.

KRS 434.850 Unlawful access to a computer in the second degree

(1) A person is guilty of unlawful access to a computer in the second degree when he or she, without the effective consent of the owner, knowingly and willfully, directly or indirectly accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, which results in the loss or damage of three hundred dollars ($300) or more.
(2) Unlawful access to a computer in the second degree is a Class D felony.

KRS 434.851 Unlawful access in the third degree

(1) A person is guilty of unlawful access in the third degree when he or she, without the effective consent of the owner, knowingly and willfully, directly or indirectly accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, which results in the loss or damage of less than three hundred dollars ($300).
(2) Unlawful access to a computer in the third degree is a Class A misdemeanor.

KRS 434.853 Unlawful access in the fourth degree

(1) A person is guilty of unlawful access in the fourth degree when he or she, without the effective consent of the owner, knowingly and willfully, directly or indirectly accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, which does not result in loss or damage.

(2) Unlawful access to a computer in the fourth degree is a Class B misdemeanor.

KRS 434.855 Misuse of computer information

(1) A person is guilty of misuse of computer information when he or she:
   (a) Receives, conceals, or uses, or aids another in doing so, any proceeds of a violation of KRS 434.845; or
   (b) Receives, conceals, or uses or aids another in doing so, any books, records, documents, property, financial instrument, computer software, computer program, or other material, property, or objects, knowing the same to have been used in or obtained from a violation of KRS 434.845.

(2) Misuse of computer information is a Class C felony.

KRS 434.860 Venue

For the purpose of venue under the provisions of KRS 434.845, 434.850, 434.851, 434.853, or 434.855, any violation of KRS 434.845, 434.850, 434.851, 434.853, or 434.855 shall be considered to have been committed: in any county in which any act was performed in furtherance of any transaction violating KRS 434.845, 434.850, 434.851, 434.853, or 434.855; in any county in which any violator had control or possession of any proceeds of said violation or of any books, records, documents, property, financial instrument, computer software, computer program or other material, objects, or items which were used in furtherance of said violation; and in any county from which, to which or through which any access to a computer, computer system, or computer network was made whether by wires, electromagnetic waves, microwaves, or any other means of communication.

KRS 437.060 Use of reptiles in religious services

Any person who displays, handles or uses any kind of reptile in connection with any religious service or gathering shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

KRS CHAPTER 438

OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

(Selected Sections)

KRS 438.060 Contaminating watercourse

(1) Except as provided in subsection (2) of this section any person who places or causes to be placed in any stream, dam, pool or pond any substance that renders the water unfit for use or produces a stench shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) and imprisoned for not less than thirty (30) days nor more than six (6) months.

(2) Any person who places the carcass of any beast in any watercourse or within twenty-five (25) yards of a watercourse, or casts it into any spring or pond shall be fined not less than five dollars ($5) nor more than twenty dollars ($20) for the first offense and for every subsequent offense not less than twenty dollars ($20) nor more than one hundred dollars ($100).

KRS 438.240 Abandonment or discard of refrigerator, freezer, icebox or ice chest with door or lid attached – Exceptions

(1) Whoever abandons or discards in any place accessible to children any refrigerator, freezer, icebox or ice chest, of a capacity of one and one-half (1-1/2) cubic feet or more, which has an attached lid or door which may be opened or shut, or who, being the owner, occupant, lessee, or manager of the place, knowingly permits an abandoned or discarded refrigerator, freezer, icebox or ice chest to remain there in such condition, is guilty of a Class B misdemeanor.

(2) A refrigerator in use for another purpose shall not be considered as discarded provided it is securely locked to prevent unauthorized entry.

SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

KRS 438.305 Definitions for KRS 438.305 to 438.340

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

* * * * * * *

(3) "Proof of age" means a driver's license or other documentary or written evidence that the individual is eighteen (18) years of age or older;

* * * * * * *

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

* * * * * * *

KRS 438.310 Sale of tobacco products to persons under age 18 prohibited – Penalty

(1) No person shall sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) Any person selling tobacco products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).

(4) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for a first violation and a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for any subsequent violation. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure.

KRS 438.311 Unlawful acts by minors relating to purchase or receipt of tobacco – Penalty – Issuance of uniform citation

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, except if the child has been committed to the custody of the state under KRS Chapters 600 to 645, or from an employer when required in the performance of the person's duties.
(2) Violation of this section shall be punishable by a fine of fifty dollars ($50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars ($200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.
(3) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
(4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

KRS 438.313 Distribution of tobacco products to persons under age 18 prohibited – Penalty – Issuance of uniform citation

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).
(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).
(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
(4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

EDITOR'S NOTE:

The following sections relating to sales of tobacco products have been deleted as being specialty enforcement not usually conducted by street officers:

KRS 438.315 Sales to or purchases by persons under age 18 from vending machine prohibited – Location of vending machine – Penalty – Issuance of uniform citation

KRS 438.317 Prohibitions against sale of or making available cigarettes packaged in units of fewer than twenty – Penalties

KRS 438.350 Prohibition against possession or use of tobacco products by minors – Exceptions

(1) No person under the age of eighteen (18) shall possess or use tobacco products.

(2) Any tobacco product found in the possession of a person under the age of eighteen (18) and in plain view of the law enforcement officer shall be confiscated by the law enforcement officer making the charge.

(3) This section shall not apply to persons exempted as provided by KRS 438.311 and 438.330.

KRS CHAPTER 500

GENERAL PROVISIONS

(Selected Sections)

KRS 500.010 Title

KRS Chapters 500 to 534 shall be known as the Kentucky Penal Code.

KRS 500.020 Offenses defined by statute – Common law abolished

(1) Common law offenses are abolished and no act or omission shall constitute a criminal offense unless designated a crime or violation under this code or another statute of this state.
(2) This provision shall not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

KRS 500.030 Rule of construction

All provisions of this code shall be liberally construed according to the fair import of their terms, to promote justice, and to effect the objects of the law.

KRS 500.050 Time limitations

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.
(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.
(3) For a misdemeanor offense under KRS Chapter 510 when the victim is under the age of eighteen (18) at the time of the offense, the prosecution of the offense shall be commenced within five (5) years after the victim attains the age of eighteen (18) years.
(4) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing courses of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

KRS 500.060 Territorial applicability

(1) Except as otherwise provided in this section, a person may be convicted under the law of this state of an offense committed by his own conduct or the conduct of another for which he is legally accountable when:
    (a) Either the conduct or the result which is an element of the offense occurs within this state; or
    (b) Conduct occurring outside the state is sufficient to constitute an attempt to commit an offense within the state; or
    (c) Conduct occurring outside the state is sufficient to constitute a conspiracy to commit an offense within the state and an overt act in furtherance of the conspiracy occurs within the state; or
    (d) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this state; or
    (e) The offense consists of the omission to perform a legal duty imposed by the law of this state regardless of where that person is when the omission occurs; or

(f) The offense is a violation of a statute of this state that expressly prohibits conduct outside the state.

(2) Subsection (1)(a) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside the state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within the state.

(3) When the offense is homicide, either the death of the victim or the bodily impact causing death constitutes a "result" within the meaning of subsection (1) (a). If the body of a homicide victim is found within this state, it shall be prima facie evidence that the result occurred within the state.

KRS 500.070 Burden of proof -- Defenses

(1) The Commonwealth has the burden of proving every element of the case beyond a reasonable doubt, except as provided in subsection (3). This provision, however, does not require disproof of any element that is entitled a "defense," as that term is used in this code, unless the evidence tending to support the defense is of such probative force that in the absence of countervailing evidence the defendant would be entitled to a directed verdict of acquittal.

(2) No court can require notice of a defense prior to trial time.

(3) The defendant has the burden of proving an element of a case only if the statute which contains that element provides that the defendant may prove such element in exculpation of his conduct.

KRS 500.080 Definitions for Kentucky Penal Code

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) **"Actor"** means any natural person and, where relevant, a corporation or an unincorporated association;

(2) **"Crime"** means a misdemeanor or a felony;

(3) **"Dangerous instrument"** means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) **"Deadly weapon"** means any of the following:
   - (a) A weapon of mass destruction;
   - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
   - (c) Any knife other than an ordinary pocket knife or hunting knife;
   - (d) Billy, nightstick, or club;
   - (e) Blackjack or slapjack;
   - (f) Nunchaku karate sticks;
   - (g) Shuriken or death star; or
   - (h) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) **"Felony"** means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) **"Government"** means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
(13) "Physical injury" means substantial physical pain or any impairment of physical condition;
(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;
(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
(18) "Weapon of mass destruction" means:
    (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
    (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
    (c) Any weapon involving a disease organism; or
    (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

KRS 500.090 Forfeiture

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
    (a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.
    (b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:
        1. The state, if the property was seized by an agency of the state or peace officer thereof;

2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:
   (a) Asserts his claim before disposition of the property pursuant to this section;
   (b) Establishes his legal interest in the property; and
   (c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1) (b) of this section.

(5) For purposes of this section, "**lawful claimant**" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

KRS 500.093 Prohibition against court or law enforcement agency retaining firearms or ammunition to prevent their transfer or sale

No court or law enforcement agency shall retain a firearm or ammunition for official use for the purpose of avoiding transfer of the firearm or ammunition to the Kentucky State Police under KRS 237.090, 500.090, or other statute to avoid its being sold pursuant to KRS 16.220.

KRS 500.100 Effect of commentary

The commentary accompanying this code may be used as an aid in construing the provisions of this code.

GENERAL PRINCIPLES OF LIABILITY

KRS 501.010 Definitions

The following definitions apply in this chapter:

(1) **"Culpable mental state"** means "intentionally" or "knowingly" or "wantonly" or "recklessly," as these terms are defined in KRS 501.020.

(2) **"Intoxication"** means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.

(3) **"Voluntary act"** means a bodily movement performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

(4) **"Voluntary intoxication"** means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime.

KRS 501. 020 Definition of mental states

The following definitions apply in the Kentucky Penal Code:

(1) **"Intentionally"**--A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause that result or to engage in that conduct.

(2) **"Knowingly"**--A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

(3) **"Wantonly"**--A person acts wantonly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

(4) **"Recklessly"**--A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

KRS 501.030 Criminal liability

A person is not guilty of a criminal offense unless:

(1) He has engaged in conduct which includes a voluntary act or the omission to perform a duty which the law imposes upon him and which he is physically capable of performing; and

(2) He has engaged in such conduct intentionally, knowingly, wantonly or recklessly as the law may require, with respect to each element of the offense, except that this requirement does not apply to any offense which imposes absolute liability, as defined in KRS 501.050.

KRS 501.040 Culpability – Construction of statutes

Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state.

KRS 501.050 Absolute liability

A person may be guilty of an offense without having one (1) of the culpable mental states defined in KRS 501.020 only when:

(1) The offense is a violation or a misdemeanor as defined in KRS 500.080 and no particular culpable mental state is included within the definition of the offense; or

(2) The offense is defined by a statute other than this Penal Code and the statute clearly indicates a legislative purpose to impose absolute liability for the conduct described.

KRS 501.060 Causal relationships

(1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.

(2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:
   - (a) The actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or
   - (b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:
   - (a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or
   - (b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.

KRS 501.070 Liability – Ignorance or mistake

(1) A person's ignorance or mistake as to a matter of fact or law does not relieve him of criminal liability unless:
   - (a) Such ignorance or mistake negatives the existence of the culpable mental state required for commission of an offense; or
   - (b) The statute under which he is charged or a statute related thereto expressly provides that such ignorance or mistake constitutes a defense or exemption; or
   - (c) Such ignorance or mistake is of a kind that supports a defense of justification as defined in this Penal Code.

(2) When ignorance or mistake relieves a person of criminal liability under subsection (1) but he would be guilty of another offense had the situation been as he supposed it was, he may be convicted of that other offense.

(3) A person's mistaken belief that his conduct, as a matter of law, does not constitute an offense does not relieve him of criminal liability, unless such mistaken belief is actually founded upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:
   - (a) A statute or other enactment; or
   - (b) A judicial decision, opinion or judgment; or
   - (c) An administrative order or grant of permission; or
   - (d) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the law defining the offense.

KRS 501.080 Liability – Intoxication

Intoxication is a defense to a criminal charge only if such condition either:

(1) Negatives the existence of an element of the offense; or

(2) Is not voluntarily produced and deprives the defendant of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

KRS 501.090 Liability – Duress

(1) In any prosecution for an offense other than an intentional homicide, it is a defense that the defendant engaged in the proscribed conduct because he was coerced to do so by the use of, or a threat of the use of, unlawful physical force against him or another person which a person in his situation could not reasonably be expected to resist.

(2) The defense provided by subsection (1) is unavailable if the defendant intentionally or wantonly placed himself in a situation in which it was probable that he would be subjected to coercion.

PARTIES TO OFFENSES – ACCOUNTABILITY

KRS 502.010 Liability for conduct of innocent or irresponsible person

(1) A person is guilty of an offense committed by an innocent or irresponsible person when he:
   (a) Acts with the culpability that is sufficient for commission of that offense; and
   (b) Causes that innocent or irresponsible person to engage in conduct constituting the offense.

(2) As used in this section, an "innocent or irresponsible person" includes anyone who is not guilty of the offense in question, despite his participation, because of:
   (a) Criminal irresponsibility or other legal incapacity or exemption; or
   (b) Unawareness of the criminal nature of the conduct in question or the defendant's criminal purpose; or
   (c) Any other factor precluding the mental state sufficient for the commission of the offense in question.

KRS 502.020 Liability for conduct of another – Complicity

(1) A person is guilty of an offense committed by another person when, with the intention of promoting or facilitating the commission of the offense, he:
   (a) Solicits, commands, or engages in a conspiracy with such other person to commit the offense; or
   (b) Aids, counsels, or attempts to aid such person in planning or committing the offense; or
   (c) Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(2) When causing a particular result is an element of an offense, a person who acts with the kind of culpability with respect to the result that is sufficient for the commission of the offense is guilty of that offense when he:
   (a) Solicits or engages in a conspiracy with another person to engage in the conduct causing such result; or
   (b) Aids, counsels, or attempts to aid another person in planning, or engaging in the conduct causing such result; or
   (c) Having a legal duty to prevent the conduct causing the result, fails to make a proper effort to do so.

KRS 502.030 Liability for conduct of another – No defense

In any prosecution for an offense in which the criminal liability of the accused is based upon the conduct of another person pursuant to KRS 502.010 and 502.020, it is no defense that:

(1) Such other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense, or has an immunity to prosecution or conviction for such conduct; or

(2) The offense in question, as defined, can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the offense in an individual capacity.

KRS 502.040 Liability for conduct of another – Exemptions

A person is not guilty under KRS 502.010 or 502.020 for an offense committed by another person when:

(1) The offense is so defined that his conduct is inevitably incident to its commission; or

(2) Prior to the commission of the offense, he manifests a voluntary and complete renunciation, as defined in KRS 506.060, of his criminal purposes and:

  (a) Deprives his prior effort of its effectiveness in such commission; or

  (b) Gives timely warning to the proper law enforcement authorities or otherwise makes proper effort to prevent commission of the offense.

KRS 502.050 Corporate liability

(1) A corporation is guilty of an offense when:

  (a) The conduct constituting the offense consists of a failure to discharge a specific duty imposed upon corporations by law; or

  (b) The conduct constituting the offense is engaged in, authorized, commanded or wantonly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment in behalf of the corporation; or

  (c) The conduct constituting the offense is engaged in by an agent of the corporation acting within the scope of his employment and in behalf of the corporation and:

    1. The offense is a misdemeanor or violation; or

    2. The offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation.

(2) As used in this section:

  (a) "Agent" means any officer, director, servant or employee of the corporation or any other person authorized to act in behalf of the corporation.

  (b) "High managerial agent" means an officer of a corporation or any other agent of a corporation who has duties of such responsibility that his conduct reasonably may be assumed to represent the policy of the corporation.

KRS 502.060 Individual liability for corporate conduct

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if the conduct were performed in his own name or behalf.

KRS CHAPTER 503

GENERAL PRINCIPLES OF JUSTIFICATION

KRS 503.010 Definitions for chapter

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

(2) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

(3) "Imminent" means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.

(4) "Physical force" means force used upon or directed toward the body of another person and includes confinement.

(5) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(6) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

KRS 503.020 Justification – A defense

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

KRS 503.030 Choice of evils

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.

(2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

KRS 503.040 Execution of public duty

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law 0imposing a public duty or by a judicial decree.

(2) The justification afforded by subsection (1) applies when:

   (a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal

process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

(b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

KRS 503.050 Use of physical force in self-protection – Admissibility of evidence of prior acts of domestic violence and abuse

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, sexual intercourse compelled by force or threat, felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055.

EDITOR'S NOTE: As used in this section, "sexual intercourse" includes "deviate sexual intercourse" as defined in KRS 510.010. Boyle v. Com., 694 S.W.2d 711 (Ky App, 1985)

(3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.

(4) A person does not have a duty to retreat prior to the use of deadly physical force.

KRS 503.055 Presumption of reasonable fear of imminent peril

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in subsection (1) does not apply if:

(a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

(b) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(c) The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(d) The person against whom the defensive force is used is a peace officer, as defined

in KRS 446.010, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a peace officer.

(3) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force.

(4) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

KRS 503.060 Improper use of physical force in self-protection

Notwithstanding the provisions of KRS 503.050, the use of physical force by a defendant upon another person is not justifiable when:

(1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or

(2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or

(3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:

   (a) His initial physical force was nondeadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or

   (b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

KRS 503.070 Protection of another

(1) The use of physical force by a defendant upon another person is justifiable when:

   (a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and

   (b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

(2) The use of deadly physical force by a defendant upon another person is justifiable when:

   (a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping, sexual intercourse compelled by force or threat, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055. and

   (b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

KRS 503.080 Protection of property

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:
   (a) The commission of criminal trespass, robbery, burglary, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055, in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or
   (b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.
(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:
   (a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or
   (b) Committing or attempting to commit a burglary, robbery, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055, of such dwelling; or
   (c) Committing or attempting to commit arson of a dwelling or other building in his possession.
(3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

KRS 503.085 Immunity from criminal prosecution and civil action for use of physical force.

(1) A person who uses force as permitted in KRS 503.055 in KRS 503.050, 503.070, and 503.080 is justified in using such force and is immune from criminal prosecution and civil action for the use of such force, unless the person against whom the force was used is a peace officer, as defined in KRS 446.010, who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a peace officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.
(2) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (1) of this section, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.
(3) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

KRS 503.090 Use of physical force in law enforcement

(1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:
   (a) Believes that such force is necessary to effect the arrest;
   (b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and
   (c) Believes the arrest to be lawful.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:
   (a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and
   (b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and
   (c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

(3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

KRS 503.100 Prevention of a suicide or crime

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:
   (a) Committing suicide or inflicting serious physical injury upon himself; or
   (b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) (b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.

(3) The limitations imposed on the justifiable use of force in self-protection by KRS 503.050 and 503.060, for the protection of others by KRS 503.070, for the protection of property by KRS 503.080, and for the effectuation of an arrest or the prevention of an escape by KRS 503.090 apply notwithstanding the criminality of the conduct against which such force is used.

KRS 503.110 Use of force by person with responsibility for care, discipline, or safety of others

(1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:
   (a) The defendant believes that the force used is necessary to promote the welfare of a minor or mentally disabled person or, if the defendant's responsibility for the

minor or mentally disabled person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class, or other group; and

(b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.

(2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and

(a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;

(b) The degree of force used is not forbidden by any statute governing the administration of the institution; and

(c) If deadly force is used, its use is otherwise justifiable under this code.

(3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.

(4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

(a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and

(b) The treatment is administered with the consent of the patient or, if the patient is a minor or a mentally disabled person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

KRS 503.120 Justification – General provisions

(1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under KRS 503.050 to 503.110 but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

(2) When the defendant is justified under KRS 503.050 to 503.110 in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

KRS 504.020 Mental illness or retardation

(1) A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental illness or retardation, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.
(2) As used in this chapter, the term "**mental illness or retardation**" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.
(3) A defendant may prove mental illness or retardation, as used in this section, in exculpation of criminal conduct.

KRS 504.030 Disposition of person found not guilty by reason of insanity

(1) When a defendant is found not guilty by reason of insanity, the court shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.
(2) To facilitate the procedure established in subsection (1) of this section, the court may order the detention of the defendant for a period of ten (10) days to allow for proceedings to be initiated against the defendant for examination and possible detention pursuant to the provisions of KRS Chapter 202A or 202B.

KRS 504.060 Definitions for chapter

As used in this chapter, unless the context otherwise requires:
(1) **"Department"** means the Department of Corrections;
(2) **"Forensic psychiatric facility"** means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for Health Services for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;
(3) **"Foreseeable future"** means not more than three hundred sixty (360) days;
(4) **"Incompetency to stand trial"** means, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;
(5) **"Insanity"** means, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;
(6) **"Mental illness"** means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
(7) **"Mental retardation"** means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;
(8) **"Psychiatrist"** means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9) **"Psychologist"** means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;
(10) **"Treatment"** means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and
(11) **"Treatment facility"** means an institution or part thereof, approved by the Cabinet for Health Services, which provides evaluation, care, and treatment for insane, mentally ill, or mentally retarded persons on an inpatient or outpatient basis, or both.

KRS 504.090 Incompetent defendant not to be tried

No defendant who is incompetent to stand trial shall be tried, convicted or sentenced so long as the incompetency continues.

KRS 504.120 Verdicts of jury

In cases in which the defendant provides evidence at trial of his mental illness or insanity at the time of the offense, the jury or court may find the defendant:
(1) Guilty;
(2) Not guilty;
(3) Not guilty by reason of insanity at the time of the offense; or
(4) Guilty but mentally ill at the time of the offense.

KRS 504.130 Grounds for finding defendant guilty but mentally ill

(1) The defendant may be found guilty but mentally ill if:
    (a) The prosecution proves beyond a reasonable doubt that the defendant is guilty of an offense; and
    (b) The defendant proves by a preponderance of the evidence that he was mentally ill at the time of the offense.
(2) If the defendant waives his right to trial, the court may accept a plea of guilty but mentally ill if it finds that the defendant was mentally ill at the time of the offense.

KRS CHAPTER 505

PROTECTION AGAINST UNFAIR OR OPPRESSIVE PROSECUTION

(Selected Sections)

KRS 505.010 Entrapment

(1) A person is not guilty of an offense arising out of proscribed conduct when:
   (a) He was induced or encouraged to engage in that conduct by a public servant or by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of criminal prosecution; and
   (b) At the time of the inducement or encouragement, he was not otherwise disposed to engage in such conduct.

(2) The relief afforded by subsection (1) is unavailable when:
   (a) The public servant or the person acting in cooperation with a public servant merely affords the defendant an opportunity to commit an offense; or
   (b) The offense charged has physical injury or the threat of physical injury as one (1) of its elements and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.

(3) The relief provided a defendant by subsection (1) is a defense.

KRS 505.020 Prosecution for multiple offenses

(1) When a single course of conduct of a defendant may establish the commission of more than one (1) offense, he may be prosecuted for each such offense. He may not, however, be convicted of more than one (1) offense when:
   (a) One offense is included in the other, as defined in subsection (2); or
   (b) Inconsistent findings of fact are required to establish the commission of the offenses; or
   (c) The offense is designed to prohibit a continuing course of conduct and the defendant's course of conduct was uninterrupted by legal process, unless the law expressly provides that specific periods of such conduct constitute separate offenses.

(2) A defendant may be convicted of an offense that is included in any offense with which he is formally charged. An offense is so included when:
   (a) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or
   (b) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or
   (c) It differs from the offense charged only in the respect that a lesser kind of culpability suffices to establish its commission; or
   (d) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest suffices to establish its commission.

INCHOATE OFFENSES

KRS 506.010 Criminal attempt

(1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he:
   (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or
   (b) Intentionally does or omits to do anything which, under the circumstances as he believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.

(2) Conduct shall not be held to constitute a substantial step under subsection (1) (b) unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he is charged with attempting.

(3) A person is guilty of criminal attempt to commit a crime when he engages in conduct intended to aid another person to commit that crime, although the crime is not committed or attempted by the other person, provided that his conduct would establish complicity under KRS 502.020 if the crime were committed by the other person.

(4) A criminal attempt is a:
   (a) Class C felony when the crime attempted is a violation of KRS 521.020 *[Bribery of a public servant]* or 521.050 *[Providing pecuniary benefit for bribery of a public servant]*;
   (b) Class B felony when the crime attempted is a Class A felony or capital offense;
   (c) Class C felony when the crime attempted is a Class B felony;
   (d) Class A misdemeanor when the crime attempted is a Class C or D felony;
   (e) Class B misdemeanor when the crime attempted is a misdemeanor.

KRS 506.020 Criminal attempt – Defense of renunciation

(1) In any prosecution for criminal attempt to commit a crime, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant abandoned his effort to commit the crime and, if mere abandonment was insufficient to avoid the commission of the crime, took the necessary affirmative steps to prevent its commission.

(2) A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by:
   (a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or
   (b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

KRS 506.030 Criminal solicitation

(1) A person is guilty of criminal solicitation when, with the intent of promoting or facilitating the commission of a crime, he commands or encourages another person to engage in specific conduct which would constitute that crime or an attempt to commit that crime or which would establish the other's complicity in its commission or attempted commission.

(2) A criminal solicitation is a:
   (a) Class C felony when the crime solicited is a violation of KRS 521.020 or 521.050;

(b) Class B felony when the crime solicited is a Class A felony or capital offense;
(c) Class C felony when the crime solicited is a Class B felony;
(d) Class A misdemeanor when the crime solicited is a Class C or D felony;
(e) Class B misdemeanor when the crime solicited is a misdemeanor.

KRS 506.040 Criminal conspiracy

(1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:
   (a) Agrees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or
   (b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.
(2) Except as provided in a specific statute to the contrary, a criminal conspiracy is a:
   (a) Class C felony when the conspiratorial agreement is a violation of KRS 521.020 or 521.050;
   (b) Class B felony when the object of the conspiratorial agreement is a Class A felony or capital offense;
   (c) Class C felony when the object of the conspiratorial agreement is a Class B felony;
   (d) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;
   (e) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

KRS 506.050 Conspiracy – General provisions

(1) No person may be convicted of conspiracy to commit a crime unless an overt act in furtherance of the conspiracy is alleged and proved to have been committed by one (1) of the conspirators.
(2) A person who conspires to commit more than one (1) crime, all of which are the object of the same agreement or continuous conspiratorial relationship, is guilty of only one (1) conspiracy. The classification of this crime under subsection (2) of KRS 506.040 shall be determined by the most serious offense which he is found guilty of conspiring to commit.
(3) If a person guilty of conspiracy, as defined by KRS 506.040, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit the crime with the other person or persons, whether or not he knows their identity.
(4) No person may be convicted of conspiracy to commit a crime when an element of that crime is agreement with the person with whom he is alleged to have conspired or when that crime is so defined that his conduct is an inevitable incident to its commission.

KRS 506.060 Criminal solicitation or conspiracy – Defense of renunciation

(1) In any prosecution for criminal solicitation or criminal conspiracy in which the crime solicited or the crime contemplated by the conspiracy was not in fact committed, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant prevented the commission of the crime.
(2) A renunciation is not "voluntary and complete" within the meaning of this section when it is motivated in whole or in part by:

(a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or
(b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

KRS 506.070 Incapacity or solicitee or co-conspirator

(1) It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited because of:
   (a) Criminal irresponsibility or other legal incapacity or exemption; or
   (b) Unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose; or
   (c) Any other factor precluding the mental state required for the commission of the crime solicited.
(2) It is no defense to a prosecution for criminal conspiracy that a co-conspirator could not be guilty of the conspiracy or the crime contemplated by the conspiracy because of:
   (a) Criminal irresponsibility or other legal incapacity or exemption; or
   (b) Unawareness of the criminal nature of the conspiracy or the conduct contemplated by the conspiracy or of the defendant's criminal purpose; or
   (c) Any other factor precluding the mental state required for the commission of the conspiracy or the crime contemplated by the conspiracy.
(3) A defendant cannot be convicted of conspiracy if all of his co-conspirators have been acquitted or discharged under circumstances amounting to an acquittal.

KRS 506.080 Criminal facilitation

(1) A person is guilty of criminal facilitation when, acting with knowledge that another person is committing or intends to commit a crime, he engages in conduct which knowingly provides such person with means or opportunity for the commission of the crime and which in fact aids such person to commit the crime.
(2) Criminal facilitation is a:
   (a) Class D felony when the crime facilitated is a Class A or Class B felony or capital offense;
   (b) Class A misdemeanor when the crime facilitated is a Class C or Class D felony;
   (c) Class B misdemeanor when the crime facilitated is a misdemeanor.

KRS 506.090 Criminal facilitation – No defense

In any prosecution for criminal facilitation, it is no defense that:
(1) The person facilitated could not be guilty of the crime facilitated because of criminal irresponsibility or other legal incapacity or exemption, unawareness of the criminal nature of the conduct facilitated, or any other factor precluding the mental state required for commission of the crime facilitated; or
(2) The person facilitated has not been prosecuted for or convicted of the crime facilitated, or has been convicted of a different crime, or has an immunity to prosecution or conviction for such conduct; or
(3) The crime facilitated can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the crime in an individual capacity.

KRS 506.100 Criminal facilitation -- Exemptions

A person is not guilty of criminal facilitation when:

(1) The crime facilitated is so defined that his conduct is inevitably incident to its commission; or

(2) Prior to the commission of the crime facilitated he makes a substantial effort to prevent the commission of that crime.

KRS 506.110 Multiple convictions

(1) A person may not be convicted on the basis of the same course of conduct of both the actual commission of a crime and:
   - (a) A criminal attempt to commit that crime; or
   - (b) A criminal solicitation of that crime; or
   - (c) A criminal facilitation of that crime; or
   - (d) A conspiracy to commit that crime, except as provided in subsection (2) of this section.

(2) A person may be convicted on the basis of the same course of conduct of both the actual commission of a crime and a conspiracy to commit that crime when the conspiracy from which the consummated crime resulted had as an objective of the conspiratorial relationship the commission of more than one (1) crime.

(3) A person may not be convicted of more than one (1) of the offenses defined in KRS 506.010, 506.030, 506.040 and 506.080 for a single course of conduct designed to consummate in the commission of the same crime.

KRS 506.120 Engaging in organized crime

(1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:
   - (a) Organize or participate in organizing a criminal syndicate or any of its activities;
   - (b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;
   - (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
   - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
   - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
   - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;
   - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 *[Miscellaneous crimes affecting businesses, occupations and professions]* or 521 *[Bribery and corrupt influences]* or KRS 119.205, *[Making or receiving expenditures for vote, for withholding of vote, or for signing a petition to have public question on ballot]*, 121.025 *[Corporate contribution to candidate]*, 121.055 *[Candidate obligating self for actions to be taken when elected]*, 524.070 *[Bribe receiving by a juror]*, 156.465 *[Giving reward to department of education personnel for adoption of books]*, 45A.340 *[Conflicts of interest of public officers and employees under model procurement code]*, 63.090

[Neglect of duty], 6.080 *[Refusal to testify before legislature or attempt to corrupt legislator]*, 18A.145 *[Other acts prohibited by state personnel]*, or 244.600 *[Commercial bribery unlawful]*.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:
   (a) Extortion or coercion in violation of KRS 514.080 [*Theft by extortion]* or 521.020 *Bribery of a public servant*;
   (b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529 *[Prostitution offenses]*;
   (c) Any theft offense as defined in KRS Chapter 514 *[Theft and related offenses]*;
   (d) Any gambling offense as defined in KRS 411.090 *[Gaming on premises without permission]*, KRS Chapter 528 *[Gambling]*, or Section 226 of the Constitution *[State lottery]*;
   (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
   (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

KRS 506.140 Criminal gang recruitment – Definitions for chapter

(1) A person is guilty of criminal gang recruitment when he solicits or entices another person to join a criminal gang, or intimidates or threatens another person because the other person:
   (a) Refuses to join a criminal gang;
   (b) Has withdrawn or is attempting to withdraw from a criminal gang; or
   (c) Refuses to submit to a demand made by a criminal gang.

(2) As used in this chapter:
   (a) **"Criminal gang"** means any alliance, network, or conspiracy, in law or in fact, of five (5) or more persons with an established hierarchy that, through its membership or through the action of any member, engages in a continuing pattern of criminal activity. "Criminal gang" shall not include fraternal organizations, unions, corporations, associations, or similar entities, unless organized for the primary purpose of engaging in criminal activity.
   (b) **"Continuing pattern of criminal activity"** means a conviction by any member or members of a criminal gang for the commission, attempt, or solicitation of two (2) or more felony offenses, the commission of two (2) or more violent misdemeanor offenses, or a combination of at least one (1) of these felony offenses and one (1) of these violent misdemeanor offenses, on separate occasions within a two (2) year period for the purpose of furthering gang activity.
   (c) **"Violent misdemeanor offense"** means KRS 508.030 *[Assault in the fourth degree]*, 508.050 *[Menacing]*, 508.070 *[Wanton endangerment in the second decree]*, 508.080 *[Terroristic threatening in the third degree]*, 508.120 *[Criminal abuse in the third degree]*, 508.150 *[Stalking in the second degree]*, 509.030 *[Unlawful imprisonment in the second degree]*, and 509.080 *[Criminal coercion]*.

(3) Criminal gang recruitment is a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

KRS 506.150 Criminal gang activity or recruitment – Actions not constituting defenses

(1) To establish the existence of a "criminal gang" as defined in KRS 506.140, any competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including the following:
   (a) Self-proclamation;
   (b) A common name, insignia, flag, or means of recognition;
   (c) Common identifying hand or body signs, signals, or code;
   (d) A common identifying mode, style, or color of dress;
   (e) An identifying tattoo or body marking;
   (f) Membership, age, or other qualifications;
   (g) Creed of belief;
   (h) An organizational or command structure, overt or covert;
   (i) A de facto claim of territory or jurisdiction;
   (j) An initiation ritual;
   (k) A concentration or specialty; or
   (l) A method of operation or criminal enterprise.

(2) It is no defense to prosecution under KRS 506.140 that:
   (a) One (1) or more members of the gang are not criminally responsible for the offense;
   (b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;
   (c) A person has been charged with, acquitted, or convicted of any offense under KRS 506.140;
   (d) The participants may not know each other's identity;
   (e) The membership in the criminal gang may change from time to time; or
   (f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.

(3) Once the initial combination of five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal activity as defined in KRS 506.140 constituting a violation of KRS 506.140.

KRS CHAPTER 507

CRIMINAL HOMICIDE

KRS 507.010 Definitions

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

KRS 507.020 Murder

(1) A person is guilty of murder when:
   (a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or
   (b) Including, but not limited to, the operation of a motor vehicle under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.
(2) Murder is a capital offense.

KRS 507.030 First degree manslaughter

(1) A person is guilty of manslaughter in the first degree when:
   (a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or
   (b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507 020.
(2) Manslaughter in the first degree is a Class B felony.

KRS 507.040 Second degree manslaughter

(1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person, including, but not limited to, situations where the death results from the person's:
   (a) Operation of a motor vehicle; or
   (b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child.
(2) Manslaughter in the second degree is a Class C felony.

KRS 507.050 Reckless homicide

(1) A person is guilty of reckless homicide when, with recklessness he causes the death of another person.
(2) Reckless homicide is Class D felony.

FETAL HOMICIDE

KRS 507A.010 Definitions -- Exceptions

(1) As used in this chapter:

(a) "Abortion" has the same meaning as in KRS 311.720;

(b) "Health care provider" has the same meaning as in KRS 304.17A-005; and

EDITOR'S NOTES:

- *KRS 311.720:*

  (1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death;

- *KRS 304.17A-005:*

  (19) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

  (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

  (b) Chiropractors licensed under KRS Chapter 312;

  (c) Dentists licensed under KRS Chapter 313;

  (d) Optometrists licensed under KRS Chapter 320;

  (e) Physician assistants regulated under KRS Chapter 311;

  (f) Advanced registered nurse practitioners licensed under KRS Chapter 314; and

  (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(c) "Unborn child" means a member of the species homo sapiens in utero from conception onward, without regard to age, health, or condition of dependency.

(2) In a prosecution for the death of an unborn child, nothing in this chapter shall apply to acts performed by or at the direction of a health care provider that cause the death of an unborn child if those acts were committed:

(a) During any abortion for which the consent of the pregnant woman has been obtained or for which the consent is implied by law in a medical emergency; or

(b) As part of or incident to diagnostic testing or therapeutic medical or fertility treatment, provided that the acts were performed with that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider or a person acting under the provider's direction would exercise under the same or similar circumstances.

(3) Nothing in this chapter shall apply to any acts of a pregnant woman that caused the death of her unborn child.

KRS 507A.020 Fetal homicide in the first degree

(1) A person is guilty of fetal homicide in the first degree when:

(a) With intent to cause the death of an unborn child or with the intent necessary to commit an offense under KRS 507.020(1)(a), he causes the death of an unborn child; except that in any prosecution, a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for

which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of fetal homicide in the second degree or any other crime; or

(b) Including but not limited to the operation of a motor vehicle under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to an unborn child and thereby causes the death of an unborn child.

(2) Fetal homicide in the first degree is a capital offense.

KRS 507A.030 Fetal Homicide in the second degree

(1) A person is guilty of fetal homicide in the second degree when:

(a) With intent to cause serious physical injury to an unborn child or with the intent necessary to commit an offense under KRS 507.030(1)(a), he causes the death of an unborn child; or

(b) With intent to cause the death of an unborn child or with the intent necessary to commit an offense under KRS 507.030(1) (b), he causes the death of an unborn child under circumstances which do not constitute fetal homicide in the first degree because he acts under the influence of extreme emotional disturbance, as defined in KRS 507A.020 (1) (a).

(2) Fetal homicide in the second degree is a Class B felony.

KRS 507A.040 Fetal homicide in the third degree

(1) A person is guilty of fetal homicide in the third degree when he wantonly causes the death of an unborn child, including but not limited to situations where the death results from the person's operation of a motor vehicle.

(2) Fetal homicide in the third degree is a Class C felony.

KRS 507A.050 Fetal homicide in the fourth degree

(1) A person is guilty of fetal homicide in the fourth degree when, with recklessness, he causes the death of an unborn child.

(2) Fetal homicide in the fourth degree is a Class D felony.

KRS 507A.060 Death sentence prohibited

The death of an unborn child shall not result in the imposition of a sentence of death, either as a result of the violation of KRS 507A.020 or as a result of the aggravation of another capital offense under KRS 532.025(2).

ASSAULT AND RELATED OFFENSES

KRS 508.010 Assault in the first degree

(1) A person is guilty of assault in the first degree when:
   (a) He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or
   (b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.
(2) Assault in the first degree is a Class B felony.

KRS 508.020 Assault in the second degree

(1) A person is guilty of assault in the second degree when:
   (a) He intentionally causes serious physical injury to another person; or
   (b) He intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or
   (c) He wantonly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.
(2) Assault in the second degree is a Class C felony.

KRS 508.025 Assault in the third degree

(1) A person is guilty of assault in the third degree when the actor:
   (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
      1. A state, county, city, or federal peace officer;
      2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
      3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties;
      4. Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;
      5. A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;
      6. Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;
      7. A probation and parole officer;
      8. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job related duties;
      9. A public or private elementary or secondary school or school district

classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or

10. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, urine, or other bodily fluid to be thrown upon an employee of the facility.

EDITOR'S NOTE: Although no mental state is specified in KRS 508.025(1)(b), read it as requiring a mental state of "intentionally" or"wantonly". Covington v. Com., 849 S.W.2d 560 (Ky App 1992).

(2) Assault in the third degree is a Class D felony.

KRS 508.030 Assault in the fourth degree

(1) A person is guilty of assault in the fourth degree when:
   (a) He intentionally or wantonly causes physical injury to another person; or
   (b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the fourth degree is a Class A misdemeanor.

KRS 508.032 Assault of family member or member of an unmarried couple – Enhancement of penalty

(1) If an individual is found guilty or pleads guilty to a third or subsequent offense of assault in the fourth degree pursuant to KRS 508.030 within five (5) years, and the relationship between the perpetrator and the victim in each of the offenses meets the definition of family member or member of an unmarried couple, as defined in KRS 403.720, the penalty shall be enhanced by one (1) degree above the penalty otherwise provided for the offense. The victim in the second or subsequent offense is not required to be the same person who was assaulted in the prior offenses in order for the provisions of this section to apply.

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered by a court of competent jurisdiction.

KRS 508.040 Assault under extreme emotional disturbance

(1) In any prosecution under KRS 508.010, 508.020 or 508.030 in which intentionally causing physical injury or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

(2) An assault committed under the influence of extreme emotional disturbance is:
   (a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; or
   (b) A Class B misdemeanor when it would constitute an assault in the fourth degree if not committed under the influence of an extreme emotional disturbance.

KRS 508.050 Menacing

(1) A person is guilty of menacing when he intentionally places another person in reasonable apprehension of imminent physical injury.
(2) Menacing is a Class B misdemeanor.

KRS 508.060 Wanton endangerment in the first degree

(1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.
(2) Wanton endangerment in the first degree is a Class D felony.

KRS 508.070 Wanton endangerment in the second degree

(1) A person is guilty of wanton endangerment in the second degree when he wantonly engages in conduct which creates a substantial danger of physical injury to another person.
(2) Wanton endangerment in the second degree is a Class A misdemeanor.

KRS 508.075 Terroristic threatening in the first degree

(1) A person is guilty of terroristic threatening in the first degree when he or she:
   (a) Intentionally makes false statements that he or she or another person has placed a weapon of mass destruction on:
      1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
      2. A school bus or other vehicle owned, operated, or leased by a school;
      3. The real property or any building public or private that is the site of an official school-sanctioned function; or
      4. The real property of any building owned or leased by a government agency; or
   (b) Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at an location or on any object specified in paragraph (a) of this subsection.
(2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed, with the written permission of the chief officer of the school or other institution, as a part of an official training exercise and is placed by a public servant, as defined in KRS 522.010.
(3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

EDITOR'S NOTES:

- *Although subsection (3) does not create a "defense", it gives defendants an opportunity to argue that they believed the information to be true and reported it for legitimate reasons. Officers charging under this statute should carefully document their probable cause to believe defendants knew their reports to be false.*

- *Since defendants must "intentionally" make false statements, subsection (3) would appear to be unnecessary duplication.*

(4) Terroristic threatening in the first degree is a Class C felony.

KRS 508.078 Terroristic threatening in the second degree

(1) A person is guilty of terroristic threatening in the second degree when, other than as provided in KRS 508.075 he or she intentionally:
   (a) With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;
   (b) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or
   (c) Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS.075.

(2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.

(3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

(4) Terroristic threatening in the second degree is a Class D felony.

EDITOR'S NOTE: See Editor's notes above at KRS 508.075(3).

KRS 508.080 Terroristic threatening in the third degree

(1) Except as provided in KRS 508.075 or 508.078, a person is guilty of terroristic threatening in the third degree when:
   (a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or
   (b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening in the third degree is a Class A misdemeanor.

KRS 508.090 Definitions for KRS 508.100 to 508.120

The following definitions apply in KRS 508.100 to 508.120 unless the context otherwise requires:

(1) "Abuse" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a person which are necessary to maintain the health and welfare of a person, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare.

(2) "Physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.

KRS 508.100 Criminal abuse in the first degree

(1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused and thereby:
   (a) Causes serious physical injury; or
   (b) Places him in a situation that may cause him serious physical injury; or
   (c) Causes torture, cruel confinement or cruel punishment;

   to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.
(2) Criminal abuse in the first degree is a Class C felony.

KRS 508.110 Criminal abuse in the second degree

(1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another person of whom he has actual custody to be abused and thereby:
   (a) Causes serious physical injury; or
   (b) Places him in a situation that may cause him serious physical injury; or
   (c) Causes torture, cruel confinement or cruel punishment;

   to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.
(2) Criminal abuse in the second degree is a Class D felony.

KRS 508.120 Criminal abuse in the third degree

(1) A person is guilty of criminal abuse in the third degree when he recklessly abuses another person or permits another person of whom he has actual custody to be abused and thereby:
   (a) Causes serious physical injury; or
   (b) Places him in a situation that may cause him serious physical injury; or
   (c) Causes torture, cruel confinement or cruel punishment;

   to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.
(2) Criminal abuse in the third degree is a Class A misdemeanor.

KRS 508.130 Definitions for KRS 508.130 to 508.150

As used in KRS 508.130 to 508.150, unless the context requires otherwise:
(1) (a) To "**stalk**" means to engage in an intentional course of conduct:
      1. Directed at a specific person or persons;
      2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
      3. Which serves no legitimate purpose.
   (b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.
(2) "**Course of conduct**" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. Constitutionally-protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.
(3) "**Protective order**" means:
   (a) An emergency protective order or domestic violence order issued under KRS

403.715 to 403.785;
(b) A foreign protective order, as defined in KRS 403.7521(1);
(c) An order issued under KRS 431.064;
(d) A restraining order issued in accordance with KRS 508.155; and
(e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

KRS 508.140 Stalking in the first degree.

(1) A person is guilty of stalking in the first degree,
  (a) When he intentionally:
    1. Stalks another person; and
    2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
      a. Sexual contact as defined in KRS 510.010; or
      b. Serious physical injury; or
      c. Death; and
  (b) 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or
    2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or
    3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or
    4. The act or acts were committed while the defendant had a deadly weapon on or about his person.
(2) Stalking in the first degree is a Class D felony.

KRS 508.150 Stalking in the second degree.

(1) A person is guilty of stalking in the second degree when he intentionally:
  (a) Stalks another person; and
  (b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of;
    1. Sexual contact as defined in KRS 510.010;
    2. Physical injury; or
    3. Death.
(2) Stalking in the second degree is a Class A misdemeanor.

KRS 508.155 Restraining order upon violation of KRS 508.140 or 508.150

(1) A verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for a restraining order limiting the contact of the defendant and the victim who was stalked, unless the victim requests otherwise.
(2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue the restraining order without a hearing.
(3) If the defendant requests a hearing, it shall be held at the time of the verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was entered.
(4) A restraining order may grant the following specific relief:

(a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or

(b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment including, but not limited to, personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.

(5) A restraining order issued pursuant to this section shall be valid for a period of not more than ten (10) years, the specific duration of which shall be determined by the court. Any restraining order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim, his or her immediate family, or both.

(6) Unless the defendant has been convicted of a felony, or is otherwise ineligible to purchase or possess a firearm under federal law, a restraining order issued pursuant to this section shall not operate as a ban on the purchase or possession of firearms or ammunition by the defendant.

(7) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts and may be lifted upon application of the stalking victim to the court which granted the order.

(8) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding a restraining order, the circuit clerk shall forward a copy of the order to the Law Information Network of Kentucky (LINK).

(9) A restraining order issued under this section shall be enforced in any county of the Commonwealth. Law enforcement officers acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.

(10) A violation by the defendant of an order issued pursuant to this section shall be a Class A misdemeanor. Nothing in this section shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the restraining order.

KRS 508.160 Disarming a peace officer

(1) A person is guilty of disarming a peace officer when he intentionally:

(a) Removes a firearm or other deadly weapon from the person of a peace officer when the peace officer is acting within the scope of his official duties; or

(b) Deprives a peace officer of the officer's use of a firearm or deadly weapon when the peace officer is acting within the scope of his official duties.

(2) Disarming a peace officer is a Class D felony.

(3) The provisions of this section shall not apply when:

(a) The defendant does not know or could not reasonably have known that the person disarmed was a peace officer; or

(b) The peace officer was, at the time of the disarming or incident thereto, engaged in felonious conduct.

KIDNAPPING AND RELATED OFFENSES

KRS 509.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Relative" means a parent, ancestor, brother, sister, uncle or aunt.

(2) "Restrain" means to restrict another person's movements in such a manner as to cause a substantial interference with his liberty by moving him from one place to another or by confining him either in the place where the restriction commences or in a place to which he has been moved without consent. A person is moved or confined "without consent" when the movement or confinement is accomplished by physical force, intimidation, or deception, or by any means, including acquiescence of a victim, if he is under the age of sixteen (16) years, or is substantially incapable of appraising or controlling his own behavior.

KRS 509.020 Unlawful imprisonment in the first degree

(1) A person is guilty of unlawful imprisonment in the first degree when he knowingly and unlawfully restrains another person under circumstances which expose that person to a risk of serious physical injury.

(2) Unlawful imprisonment in the first degree is a Class D felony.

KRS 509.030 Unlawful imprisonment in the second degree

(1) A person Is guilty of unlawful imprisonment in the second degree when he knowingly and unlawfully restrains another person.

(2) Unlawful imprisonment in the second degree is a Class A misdemeanor.

KRS 509.040 Kidnapping

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:
   - (a) To hold him for ransom or reward; or
   - (b) To accomplish or to advance the commission of a felony; or
   - (c) To inflict bodily injury or to terrorize the victim or another; or
   - (d) To interfere with the performance of a governmental or political function; or
   - (e) To use him as a shield or hostage; or
   - (f) To deprive the parents or guardian of the custody of a minor, when the person taking the minor is not a person exercising custodial control or supervision of the minor as the term "person exercising custodial control or supervision" is defined in KRS 600.020.

(2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury. Kidnapping is a capital offense when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:
   - (a) Serious physical injuries suffered during the kidnapping; or
   - (b) Not being released in a safe place; or
   - (c) Being released in any circumstances which are intended, known or should have

(d) been known to cause or lead to the victim's death.

KRS 509.050 Exemption

A person may not be convicted of unlawful imprisonment in the first degree, unlawful imprisonment in the second degree, or kidnapping when his criminal purpose is the commission of an offense defined outside this chapter and his interference with the victim's liberty occurs immediately with and incidental to the commission of that offense, unless the interference exceeds that which is ordinarily incident to commission of the offense which is the objective of his criminal purpose. The exemption provided by this section is not applicable to a charge of kidnapping that arises from an interference with another's liberty that occurs incidental to the commission of a criminal escape.

KRS 509.060 Defense

In any prosecution for unlawful imprisonment or kidnapping it is a defense that the defendant was a relative of the victim and his sole purpose was to assume custody of the victim.

KRS 509.070 Custodial interference

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any mentally disabled or other person entrusted by authority of law to the custody of another person or to an institution.
(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.
(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant.

KRS 509.080 Criminal coercion

(1) A person is guilty of criminal coercion when, with intent to compel another person to engage in or refrain from conduct, he unlawfully threatens to:
    (a) Commit any crime; or
    (b) Accuse anyone of a crime; or
    (c) Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair another's credit or business repute; or
    (d) Take or withhold action as an official or cause an official to take or withhold action.
(2) Defendant may prove in exculpation of criminal coercion committed under subsection (1) (b), (c) or (d) that he believed the accusation or secret to be true or the proposed official action justified and that his sole purpose was to compel or induce the victim to desist from misbehavior or to make good a wrong done by him.
(3) Criminal coercion is a Class A misdemeanor.

SEXUAL OFFENSES

KRS 510.010 Definitions for chapter

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health care practices;

(2) "Forcible compulsion" means physical force or threat of physiccal force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act; “Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

KRS 510.020 Lack of consent

(1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.

(2) Lack of consent results from:
   (a) Forcible compulsion;
   (b) Incapacity to consent; or

(c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(3) A person is deemed incapable of consent when he or she is:
- (a) Less than sixteen (16) years old;
- (b) Mentally retarded or suffers from a mental illness;
- (c) Mentally incapacitated;
- (d) Physically helpless; or
- (e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.

(4) The provisions of paragraph (e) of subsection (3) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.

KRS 510.030 Defenses

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen (16) years old, mentally retarded, mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

KRS 510.035 No offense committed if parties married to each other

A person who engages in sexual intercourse or deviate sexual intercourse with another person to whom the person is married, or subjects another person to whom the person is married to sexual contact, does not commit an offense under this chapter regardless of the person's age solely because the other person is less than sixteen (16) years old or mentally retarded.

KRS 510.040 Rape in the first degree

(1) A person is guilty of rape in the first degree when:
- (a) He engages in sexual intercourse with another person by forcible compulsion; or,
- (b) He engages in sexual intercourse with another person who is incapable of consent because he;
  - (i) Is physically helpless; or
  - (ii) is less than twelve years old.

(2) Rape in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

KRS 510.050 Rape in the second degree

(1) A person is guilty of rape in the second degree when:
- (a) Being eighteen years old or more, he engages in sexual intercourse with another person less than fourteen years old; or
- (b) He engages in sexual intercourse with another person who is mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

KRS 510.060 Rape in the third degree

(1) A person is guilty of rape in the third degree when:
- (a) He engages in sexual intercourse with another person who is incapable of consent

because he or she is mentally retarded;

(b) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old; or

(c) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under sixteen (16) years old with whom he or she comes into contact as a result of that position.

(2) Rape in the third degree is a Class D felony.

KRS 510.070 Sodomy in the first degree

(1) A person is guilty of sodomy in the first degree when:

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

(i) is physically helpless; or

(ii) is less than twelve years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

KRS 510.080 Sodomy in the second degree

(1) A person is guilty of sodomy in the second degree when:

(a) Being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old; or

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

KRS 510.090 Sodomy in the third degree

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he or she is mentally retarded;

(b) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; or

(c) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or

(d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than sixteen (16) years old with whom he or she comes into contact as a result of that position.

(2) Sodomy in the third degree is a Class D felony.

KRS 510.100 Sodomy in the fourth degree

(1) A person is guilty of sodomy in the fourth degree when he engages in deviate sexual intercourse with another person of the same sex.

(2) Notwithstanding the provisions of KRS 510.020, consent of the other person shall not be a defense under this section, nor shall lack of consent of the other person be an element of this offense.

(3) Sodomy in the fourth degree is a Class A misdemeanor.

EDITOR'S NOTE: Officers should not charge with this offense.

- *In Com. v. Wasson, 842 S.W.2d 487 (Ky 1992), the Kentucky Supreme Court held that this statute violates the equal protection and right to privacy guarantees of the Kentucky Constitution.*
- *In Lawrence v. Texas, 123 S. Ct. 2472 (2003), the U.S. Supreme Court held that a similar Texas statute violated the U.S. Constitution.*

KRS 510.110 Sexual abuse in the first degree

(1) A person is guilty of sexual abuse in the first degree when:
   (a) He or she subjects another person to sexual contact by forcible compulsion; or
   (b) He or she subjects another person to sexual contact who is incapable of consent because he or she:
      1. Is physically helpless;
      2. Is less than twelve (12) years old; or
      3. Is mentally incapacitated; or
   (c) Being twenty-one (21) years old or more, he or she:
      1. Subjects another person who is less than sixteen (16) years old to sexual contact; or
      2. Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or
      3. Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or
   (d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate.

(2) Sexual abuse in the first degree is a Class D felony, unless the victim is less than twelve (12) years old, in which case the offense shall be a Class C felony.

KRS 510.120 Sexual abuse in the second degree

(1) A person is guilty of sexual abuse in the second degree when:
   (a) He or she subjects another person to sexual contact who is incapable of consent because he or she is mentally retarded;
   (b) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or
   (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under

contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he or she engaged in the conduct constituting the offense, he or she and the offender were married to each other.

(d) In any prosecution under paragraph (b) of this section, it is a defense that:
1. The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
2. The other person was at least fourteen (14) years old; and
3. The actor was less than five (5) years older than the other person.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

KRS 510.130 Sexual abuse in the third degree

(1) A person is guilty of sexual abuse in the third degree when:
(a) He or she subjects another person to sexual contact without the latter's consent.
(b) In any prosecution under this section, it is a defense that:
(i) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen years old; and
(ii) The other person was at least fourteen years old; and
(iii) The actor was less than eighteen (18) years old.

(2) Sexual abuse in the third degree is a Class B misdemeanor.

KRS 510.140 Sexual misconduct

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) Sexual misconduct is a Class A misdemeanor.

KRS 510.148 Indecent exposure in the first degree

(1) A person is guilty of indecent exposure in the first degree when he intentionally exposes his genitals under circumstances in which he knows or should know that his conduct is likely to cause affront or alarm to a person under the age of eighteen (18) years.

(2) Indecent exposure in the first degree is a:
(a) Class B misdemeanor for the first offense;
(b) Class A misdemeanor for the second offense, if it was committed within three (3) years of the first conviction;
(c) Class D felony for the third offense, if it was committed within three (3) years of the second conviction; and
(d) Class D felony for any subsequent offense, if it was committed within three (3) years of the prior conviction

KRS 510.150 Indecent exposure in the second degree

(1) A person is guilty of indecent exposure in the second degree when he intentionally exposes his genitals under circumstances in which he knows or should know that his conduct is likely to cause affront or alarm to a person eighteen (18) years of age or older.

(2) Indecent exposure in the second degree is a Class B misdemeanor.

KRS 510.155 Unlawful use of electronic means to induce a minor to engage in sexual or other prohibited activities -- Prohibition of multiple convictions arising from single course of conduct.

(1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or Chapter 531.
(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.
(3) A violation of this section is punishable as a Class D felony.

KRS 510.300 Expungement of arrest record

(1) The arrest record of anyone accused by his spouse of an offense under this chapter shall be expunged if said charge was either dismissed with prejudice or a verdict of not guilty on said charge was entered.
(2) If the charges brought against a defendant under this chapter are dismissed with prejudice or the defendant is found not guilty, the court shall order all law enforcement and other public agencies holding records of the offense to expunge the records.
(3) No person whose records have been expunged pursuant to this section shall have to answer "Yes" and may answer "No" to the question "Have you ever been arrested?" or any similar question with regard to the offense for which the records were expunged.

KRS 510.320 Human immunodeficiency virus testing for defendants accused of certain sexual offenses----Results—-Counseling when test positive—-Cost----Effect of appeal

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.
(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.
(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health Services.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health Services to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.

(c) The Cabinet for Health Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.

(d) In addition, the Cabinet for Health Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

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KRS CHAPTER 511

BURGLARY AND RELATED OFFENSES

KRS 511.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "**Building**", in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft:
   (a) Where any person lives; or
   (b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation.

   Each unit of a building consisting of two (2) or more units separately secured or occupied is a separate building.

(2) "**Dwelling**" means a building which is usually occupied by a person lodging therein.

(3) "**Premises**" includes the term "building" as defined herein and any real property.

KRS 511.020 Burglary in the first degree

(1) A person is guilty of burglary in the first degree when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a building, and when in effecting entry or while in the building or in the immediate flight therefrom, he or another participant in the crime:
   (a) Is armed with explosives or a deadly weapon; or
   (b) Causes physical injury to any person who is not a participant in the crime; or
   (c) Uses or threatens the use of a dangerous instrument against any person who is not a participant in the crime.

(2) Burglary in the first degree is a Class B felony.

KRS 511.030 Burglary in the second degree

(1) A person is guilty of burglary in the second degree when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a dwelling.

(2) Burglary in the second degree is a Class C felony.

KRS 511.040 Burglary in the third degree

(1) A person is guilty of burglary in the third degree when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a building.

(2) Burglary in the third degree is a Class D felony.

KRS 511.050 Possession of burglar's tools

(1) A person is guilty of possession of burglar's tools when he possesses any tool, instrument or other thing adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking under circumstances which leave no reasonable doubt as to his:
   (a) Intention to use the same in the commission of an offense of such character; or
   (b) Knowledge that some other person intends to use the same in the commission of an offense of such character.

(2) Possession of burglar's tools is a Class A misdemeanor.

KRS 511.060 Criminal trespass in the first degree

(1) A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a dwelling.
(2) Criminal trespass in the first degree is Class A Misdemeanor.

KRS 511.070 Criminal trespass in the second degree

(1) A person is guilty of criminal trespass in the second degree when he knowingly enters or remains unlawfully in a building or upon premises as to which notice against trespass is given by fencing or other enclosure.
(2) Criminal trespass in the second degree is a Class B misdemeanor.

KRS 511.080 Criminal trespass in the third degree

(1) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.
(2) Criminal trespass in the third degree is a violation.

KRS 511.090 General provisions

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.
(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.
(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.
(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.
(5) Private land adjoining a railtrail that is neither fenced nor otherwise enclosed shall be presumed to be land where notice against trespassing has been given by the owner of the land, and a person utilizing the railtrail shall be presumed to lack privilege or license to enter upon that land unless the person has permission from an adjoining landowner to do so.

CRIMINAL DAMAGE TO PROPERTY

KRS 512.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal *[the waste parts of a butchered animal]*, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

(3) "Property" includes cattle.

KRS 512.020 Criminal mischief in the first degree

(1) A person is guilty of criminal mischief in the first degree when having no right to do so or any reasonable ground to believe that he has such right, he intentionally or wantonly defaces destroys or damages any property causing pecuniary loss of $1,000 or more.

(2) Criminal mischief in the first degree is a Class D felony.

KRS 512.030 Criminal mischief in the second degree

(1) A person is guilty of criminal mischief in the second degree when, having no right to do so or any reasonable ground to believe that he has such right, he intentionally or wantonly defaces, destroys or damages any property causing pecuniary loss of $500 or more.

(2) Criminal mischief in the second degree is a Class A misdemeanor.

KRS 512.040 Criminal mischief in the third degree

(1) A person is guilty of criminal mischief in the third degree when:

   (a) Having no right to do so or any reasonable ground to believe that he has such right, he intentionally or wantonly defaces, destroys or damages any property; or

   (b) He tampers with property so as knowingly to endanger the person or property of another.

(2) Criminal mischief in the third degree is a Class B misdemeanor.

KRS 512.050 Criminal use of a noxious substance

(1) A person is guilty of criminal use of a noxious substance when he unlawfully deposits on the land or in the building or vehicle of another any stink bomb, device, or irritant with the intent to interfere with another's use of the land, building or vehicle.

(2) Criminal use of a noxious substance is a Class B misdemeanor.

KRS 512.060 Criminal possession of noxious substance

(1) A person is guilty of criminal possession of a noxious substance when he possesses such substance under circumstances evincing an intent unlawfully to use or cause it to be used to inflict injury upon or to cause annoyance to a person, or to damage property of another or to disturb the public peace.

(2) Criminal possession of a noxious substance is a Class B misdemeanor.

KRS 512.070 Criminal littering

(1) A person is guilty of criminal littering when he:
   (a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or
   (b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or
   (c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty feet of a public highway; or
   (d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.

(2) Criminal littering is a Class A misdemeanor.

(3) Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.

KRS 512.080 Unlawfully posting advertisements

(1) A person is guilty of unlawfully posting advertisements when, having no right to do so or any reasonable ground to believe he has such a right, he posts, paints or otherwise affixes to the property of another person or to public property any advertisement, poster, notice or other matter.

(2) Unlawfully posting advertisements is a violation.

ARSON AND RELATED OFFENSES

KRS 513.010 Definition

The following definition applies in this chapter unless the context otherwise requires:

"**Building**", in addition to its ordinary meaning, specifically includes any dwelling, hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

KRS 513.020 Arson in the first degree

(1) A person is guilty of arson in the first degree when, with intent to destroy or damage a building, he starts a fire or causes an explosion, and;
   (a) The building is inhabited or occupied or the person has reason to believe the building may be inhabited or occupied; or
   (b) Any other person sustains serious physical injury as a result of the fire or explosion or the fire fighting as a result thereof.

(2) Arson in the first degree is a Class A felony.

KRS 513.030 Arson in the second degree

(1) A person is guilty of arson in the second degree when he starts a fire or causes an explosion with intent to destroy or damage a building:
   (a) Of another; or
   (b) Of his own or of another, to collect or facilitate the collection of insurance proceeds for such loss.

(2) In any prosecution under this section, it is a defense that:
   (a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to the defendant's conduct; and
   (b) The defendant's sole intent was to destroy or damage the building for a lawful purpose.

(3) Arson in the second degree is a Class B felony.

KRS 513.040 Arson in the third degree

(1) A person is guilty of arson in the third degree if he wantonly causes destruction or damage to a building of his own or of another by intentionally starting a fire or causing an explosion.

(2) In any prosecution under this section, it is a defense that no person other than the defendant had a possessory or proprietary interest In the building, or, if other persons had such an interest, all of them consented to defendant's conduct.

(3) Arson in the third degree is a Class D felony.

KRS 513.060 Burning personal property to defraud an insurer

(1) A person is guilty of burning personal property to defraud an insurer when, with intent to defraud or injure an insurer, he:
   (a) Sets fire to, burns, or causes to be burned; or
   (b) Aids, counsels, or procures the burning of any of the goods, wares, merchandise, or other personal property of himself or another, that is insured at the time against loss or damage by fire.

(2) Burning personal property to defraud an insurer is a Class D felony.

THEFT AND RELATED OFFENSES

KRS 514.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:
   (a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or
   (b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:
   (a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or
   (b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the Revenue Cabinet and required to be filed with the Revenue Cabinet as prescribed by law.

KRS 514.020 General provisions

(1) It is a defense to prosecution for theft that the actor:
   (a) Was unaware that the property or service was that of another; or
   (b) Acted under a claim of right to the property or service involved or a claim that he had a right to acquire or dispose of it as he did; or
   (c) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

(2) It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it involves the property of the other spouse and only if it occurs after the parties have ceased living together.

(3) It shall be prima facie evidence of intent to commit theft by deception when one who has leased or rented the personal property of another fails to return the personal property to its owner within ten (10) days after the lease or rental agreement has expired. It shall also be prima facie evidence of intent to commit theft by deception when one presents to the owner identification which is false, fictitious or not current as to name, address, place of employment or other items of identification for the purpose of obtaining the lease or rental agreement. Nothing herein contained shall relieve the owner from making demand for return of property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement shall constitute proper demand.

KRS 514.030 Theft by unlawful taking or disposition

(1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
   (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
   (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

   EDITOR'S NOTES:

   - *Most shoplifters are charged under this section, but other sections of this chapter may also be appropriate, See KRS 433.234 and 433.236 (above at page 7.2.3) for special provisions relating to "shoplifting".*
   - *The 2001 General Assembly authorized suspending operator's licenses for second or subsequent convictions under this section for theft of gasoline or special fuels from a "retail establishment" (see KRS 186.540(3) herein at page 5.3.13 and KRS 532.356(2) at page 8.34.9).*
   - *KRS 532.356 clearly designates this section (not Theft of Services) as the proper charge.*
   - *By using shoplifting language ("retail establishment") the Legislature apparently approved treating "gas drive-offs" as a form of shoplifting, thus empowering officers to make warrantless arrests for a misdemeanor not committed in the officers' presence.*
   - *Officers should consult their prosecuting attorneys for local policy on whether or not to seize as vehicles used to transport stolen property*

(i.e., gasoline) the vehicles of persons who drive off without paying for gasoline – see KRS 514.130(1) herein at page 8.16.8

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more, in which case it is a Class D felony; or unless:
   (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or
   (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

KRS 514.040 Theft by deception

(1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:
   (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
   (b) Prevents another from acquiring information which would affect judgment of a transaction;
   (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
   (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or
   (e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.
(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.
(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
   (a) The maker had no account with the drawee at the time the check or order was issued; or
   (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct

postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted reasonable bad check handling fee not to exceed fifty dollars ($50) and any fee imposed pursuant to subsection (5) of this section.

(5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of fifty dollars ($50), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

(6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(8) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is three hundred dollars ($300) or more, in which case it is a Class D felony.

KRS 514.050 Theft of property lost, mislaid or delivered by mistake

(1) Except as provided in KRS 365.710 *[unsolicited goods]*, a person is guilty of theft of property lost, mislaid or delivered by mistake when:
   (a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and
   (b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is $300 or more in which case it is a Class D felony.

KRS 514.060 Theft of services

(1) A person is guilty of theft of services when:
   (a) The person intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation;
   (b) The person intentionally obtains wireless communications services or access to services by any of the following means:
      1. Unauthorized interception of any electronic serial number, mobile identification number, personal identification number, or like identifying number;
      2. Unauthorized interception of any cellular service or personal communications service as terms may be defined in Title 47 C.F.R., Parts 22 and 24 respectively;
      3. Unauthorized interception of any similar telephone service; or
      4. Use of deception, threat, or other means to avoid payment for the services which the person knows are available only for charge or compensation; or

(c) Having control over or unauthorized access to the use of the services of others to which the person is not entitled, the person intentionally diverts the services to the person's own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of the services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in a manner so as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility;

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is $300 or more, in which case it is a Class D felony.

KRS 514.065 Possession, use or transfer for use of a device for theft of telecommunications services

(1) As used in this section, "telecommunications service" means any communication service ordinarily provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, sounds, or intelligence of any nature by telephone, including but not limited to cellular and personal communications service, as terms may be defined in Title 47 C.F.R., Parts 22 and 24, respectively, telephones, wire, radio, electromagnetic, photoelectronic, or photooptical systems, but excluding cable television services, even if provided by a telephone utility.

(2) A person is guilty of possession, use, or transfer for use of a device for theft of telecommunications services when the person:

(a) Makes, assembles, or possesses any instrument, apparatus, equipment or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications services in violation of KRS 514.060; or

(b) Sells, gives, transports, or otherwise transfers to another, or offers or advertises to sell, give, or otherwise transfer any instrument, apparatus, equipment or device described in paragraph (a) of this subsection, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ the instrument, apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in paragraph (a) of this subsection, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling the instrument, apparatus, equipment, or device.

(3) An instrument, apparatus, equipment or device described in paragraph (a) of subsection (2) of this section shall not include any instrument, apparatus, equipment or device authorized or approved or otherwise permitted by an agency of the federal government or the Commonwealth of Kentucky.

(4) Possession, use, or transfer for use of a device for theft of telecommunications services is a Class A misdemeanor unless the defendant has previously been convicted of violating this section, in which case it is a Class D felony.

(5) Notwithstanding any other provision of this chapter, any instrument, apparatus, equipment, or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications service in violation of KRS 514.060, may be seized under warrant or incident to a lawful arrest for the violation of KRS 514.060, and, upon the conviction of any person for a violation, the court shall order any instrument, apparatus, equipment, device, or plans or instructions for making or assembling them forfeited to the state or destroyed in accordance with KRS 500.090(1)(a), or if requested by the person providing the telecommunications service in the territory in which they were seized, turned over to the telecommunications service provider.

KRS 514.070 Theft by failure to make required disposition of property

(1) A person is guilty of theft by failure to make required disposition of property received when:
   (a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and
   (b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of Subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employee of the government or of a financial institution is presumed:
   (a) To know any legal obligation relevant to his criminal liability under this section; and
   (b) To have dealt with the property as his own when:
      1. He fails to account or pay upon lawful demand; or
      2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is $300 or more, in which case it is a Class D felony.

KRS 514.080 Theft by extortion

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:
   (a) Inflict bodily injury on anyone or commit any other criminal offense; or
   (b) Accuse anyone of a criminal offense; or
   (c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
   (d) Use wrongfully his position as a public officer or servant or employee by performing some act within or related to his official duties either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in a manner affecting some person adversely; or
   (e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
   (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to

which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is $300 or more, in which case it is a Class D felony.

KRS 514.090 Theft of labor

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
   (a) The issuer had no account with the drawee at the time the check or order was issued; or
   (b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is $300 or more, in which case it is a Class D felony.

KRS 514.100 Unauthorized use of automobile or other propelled vehicle

(1) A person is guilty of the unauthorized use of an automobile or other propelled vehicle when he knowingly operates, exercises control over, or otherwise uses such vehicle without consent of the owner or person having legal possession thereof.

(2) Unauthorized use of automobiles or other propelled vehicle is a Class A misdemeanor unless the defendant has previously been convicted of this offense or of violation of KRS 514.030 for having stolen an automobile or other propelled vehicle in which case it shall be a Class D felony.

KRS 514.110 Receiving stolen property

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more, in which case it is a Class D felony; or unless:
   (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or
   (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432 in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

KRS 514.120 Obscuring the identity of a machine

(1) A person is guilty of obscuring the identity of a machine or other property when he:
   (a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or

mark including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a Social Security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a Social Security number or motor vehicle operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is $300 or more, in which case it is a Class D felony.

KRS 514.130 Forfeiture

(1) Upon the conviction of any person for the violation of any offense in this chapter all property held in violation of this chapter, and any personal property, including but not limited to vehicles or aircraft, used in the commission or furtherance of an offense under this chapter or in the transportation of stolen property shall be forfeited as provided in KRS 500.090 by court order and sold, destroyed or otherwise disposed of in accordance with KRS 500.090.

(2) Possession of a vehicle with a stolen major part or parts installed thereon shall be deemed to bring the entire vehicle within the provisions of subsection (1) of this section.

(3) For the purposes of this section a major part of an automobile or other propelled vehicle shall mean.

(a) The engine;
(b) The frame;
(c) The transmission;
(d) The front cap ("dog house");
(e) The front clip;
(f) The rear clip;
(g) The top clip;
(h) The cowl clip;
(i) A door;
(j) A truck bed;

(k) A truck cab; or
(l) A vehicle body shell.

(4) It shall be the duty of every peace officer to seize any property which is subject to forfeiture under this action.

KRS 514.140 Theft of mail matter

(1) A person is guilty of theft of mail matter when with intent to deprive the owner thereof he:
(a) Steals;
(b) By fraud or deception obtains;
(c) Embezzles;
(d) Conceals;
(e) Damages; or
(f) Destroys;
any mail matter of another (including but not limited to any letter, postal card, package, bag, or other item) from any letter box, mail receptacle, or other authorized depository for mail matter, or from a letter carrier, postal vehicle, or private mailbox or which has been left for collection or delivery adjacent thereto by the United States postal service.

(2) Theft of mail matter is a Class D felony.

KRS 514.150 Possession of stolen mail

(1) A person is guilty of possession of stolen mail matter when he knowingly or having reason to believe that it has been the subject of theft in violation of KRS 514.140:
(a) Possesses;
(b) Buys;
(c) Receives;
(d) Conceals;
(e) Deals in; or
(f) Sells; any
mail matter (as defined in KRS 514.140.)

(2) Possession of stolen mail matter is a Class D felony.

KRS 514.160 Theft of the identity of another

(1) A person is guilty of the theft of the identity of another when he or she knowingly possesses or uses any current or former identifying information of the other person or family member or ancestor of the other person, such as that person's or family member's or ancestor's name, address, telephone number, electronic mail address, Social Security number, driver's license number, birth date, personal identification number or code, and any other information which could be used to identify the person, including unique biometric data, with the intent to represent that he or she is the other person for the purpose of:
(a) Depriving the other person of property;
(b) Obtaining benefits or property to which he or she would otherwise not be entitled;
(c) Making financial or credit transactions using the other person's identity;
(d) Avoiding detection; or
(e) Commercial or political benefit.

(2) Theft of identity is a Class D felony. If the person violating this section is a business that has violated this section on more than one (1) occasion, then that person also violates the Consumer Protection Act, KRS 367.110 to 367.300.

(3) This section shall not apply when a person obtains the identity of another to

misrepresent his or her age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

(4) This section does not apply to credit or debit card fraud under KRS 434.550 to 434.730.

(5) Where the offense consists of theft by obtaining or trafficking in the personal identity of another person, the venue of the prosecution may be in either the county where the offense was committed or the county where the other person resides.

(6) A person found guilty of violating any provisions of this section shall forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.

KRS 514.170 Trafficking in stolen identities

(1) A person is guilty of trafficking in stolen identities when he or she manufactures, sells, transfers, or purchases, or possesses with the intent to manufacture, sell, transfer, or purchase the personal identity of another person or persons for any purpose listed in KRS 514.160(1). The personal identity of an individual includes any of the identifying information described in KRS 514.160(1).

(2) Possession of five (5) or more separate identities shall be prima facie evidence that the identities are possessed for the purpose of trafficking.

(3) Trafficking in stolen identities is a Class C felony. If the person violating this section is a business that has violated this section on more than one (1) occasion, then that person also violates the Consumer Protection Act, KRS 367.110 to 367.300.

ROBBERY

KRS 515.010 Definition

The following definition applies in this chapter, unless the context otherwise requires:
"**Physical force**" means force used upon or directed toward the body of another person.

KRS 515.020 Robbery in the first degree

(1) A person is guilty of robbery in the first degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft and when he:
   (a) Causes physical injury to any person who is not a participant in the crime; or
   (b) Is armed with a deadly weapon; or
   (c) Uses or threatens the immediate use of a dangerous instrument upon any person who is not a participant in the crime.
(2) Robbery in the first degree is a Class B felony.

KRS 515.030 Robbery in the second degree

(1) A person is guilty of robbery in the second degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft.
(2) Robbery in the second degree is a Class C felony.

FORGERY AND RELATED OFFENSES

KRS 516.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed:
   (a) To receive a coin or bill or token made for the purpose; and
   (b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or service;

(2) "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof;

(3) "Controlled substance" has the same meaning as it does in KRS 218A.010;

(4) "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(5) To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(6) To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(7) To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof;

(8) "Forged instrument" means a written instrument which has been falsely made, completed or altered;

(9) "Slug" means an object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token;

(10) "Value of the slug" means the value of the coin, bill, or token for which it is capable of being substituted;and

(11) "Written instrument" means any instrument or article containing written or printed matter or it equivalent used for the purpose of reciting, embodying, conveying, or recording information, or constituting symbol or evidence of value, right, privilege, or identification, which is capable of being used to the advantage or disadvantage of some person.

KRS 516.020 Forgery in the first degree

(1) A person is guilty of forgery in the first degree when with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which Is calculated to become or to represent when completed:

(a) Part of an issue of money stamps, securities or other valuable instruments issued by a government or governmental agency; or
(b) Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.

(2) Forgery in the first degree is a Class C felony.

KRS 516.030 Forgery in the second degree

(1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:
(a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or
(b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or
(c) A written instrument officially issued or created by a public office, public employee or governmental agency.

(2) Forgery in the second degree is a Class D felony.

KRS 516.040 Forgery in the third degree

(1) A person is guilty of forgery in the third degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument.
(2) Forgery in the third degree is a Class A misdemeanor.

KRS 516.050 Criminal possession of forged instrument in the first degree

(1) A person is guilty of criminal possession of a forged instrument in the first degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in KRS 516.020.
(2) Criminal possession of a forged instrument in the first degree is a Class C felony.

KRS 516.060 Criminal possession of forged instrument in the second degree

(1) A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with in lent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in KRS 516.030.
(2) Criminal possession of a forged instrument in the second degree is a Class D felony.

KRS 516.070 Criminal possession of forged instrument in the third degree

(1) A person is guilty of criminal possession of a forged instrument in the third degree when, with knowledge that it is forged and with intent to defraud, deceive or, injure another, he utters or possesses a forged instrument.
(2) Criminal possession of a forged instrument in the third degree is a Class A misdemeanor.

KRS 516.080 Limitations on criminal liability

A person may not be convicted of both forgery and criminal possession of a forged instrument with respect to the same instrument.

KRS 516.090 Possession of a forgery device

(1) A person is guilty of possession of a forgery device when he:
   (a) Makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed or adapted for use in forging written instruments; or
   (b) Makes or possesses with knowledge of its character any device, apparatus, equipment or article capable of or adaptable to use in forging written instruments with intent to use it himself or to aid or permit another to use it for purposes of forgery.
(2) Possession of a forgery device is a Class D Felony.

KRS 516.100 Forfeiture of forgery device

Any forgery device which is made, possessed or used in violation of this chapter is forfeited to the state and shall be disposed of in accordance with KRS 500.090.

KRS 516.108 Criminal simulation in the first degree

(1) A person is guilty of criminal simulation in the first degree when he or she knowingly manufactures, markets, or distributes any product which is intended to defraud a test designed to detect the presence of alcohol or a controlled substance.
(2) Criminal simulation in the first degree is a Class D felony..

KRS 516.110 Criminal simulation in the second degree

(1) A person is guilty of criminal simulation in the second degree when, with intent to defraud, he or she:
   (a) Makes or alters any object in such manner that it appears to have an antiquity, rarity, source, or authorship which it does not in fact possess;
   (b) Uses any product to alter the results of a test designed to detect the presence of alcohol or a controlled substance in that person; or
   (c) Possesses an object so simulated with knowledge of its character.
(2) Criminal simulation in the second degree is a Class A misdemeanor.

KRS 516.120 Using slugs in the first degree

(1) A person is guilty of unlawfully using slugs in the first degree when:
   (a) He makes, possesses or disposes of slugs with intent to enable a person to insert, deposit or use them in a coin machine; and
   (b) The value of such slugs exceeds $100.
(2) Unlawfully using slugs in the first degree is a Class D felony.

KRS 516.130 Using slugs in the second degree

(1) A person is guilty of unlawfully using slugs in the second degree when:
   (a) With intent to defraud the owner, licensee or lessee of a coin machine, he inserts, deposits or uses a slug in such machine; or
   (b) He makes, possesses or disposes of a slug with intent to enable a person to insert, deposit or use it in a coin machine.
(2) Unlawfully using slugs in the second degree is a Class B misdemeanor.

KRS CHAPTER 517

BUSINESS AND COMMERCIAL FRAUDS

KRS 517.010 Definitions for chapter

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(2) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(3) "Enterprise" means any entity of one (1) or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political, or governmental activity.

(4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver, and any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(5) "Mislabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality or quantity.

(6) "Sham or front company" means any business established or in existence which falsely represents that business to be a minority business enterprise, or disadvantaged business enterprise, as defined in 79 C.F.R. 23.5 or 15 C.F.R. 1400.2, operated or operating for the purpose of obtaining funds, contracts, subcontracts, services, or other benefits from any local government, local government agency, or special district of this Commonwealth from the Commonwealth, or any state government agency or public corporation of this Commonwealth, or from the United States government or any federal government agency.

KRS 517.020 Deceptive business practices

(1) A person is guilty of deceptive business practices when, in the course of engaging in a business, occupation or profession, he knowingly:

(a) Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; or

(b) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or

(c) Takes or attempts to take more than the represented quantity of any commodity, thing or service when as a buyer, agency or receiver he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing or service is determined; or

(d) Sells, offers or exposes for sale adulterated commodities; or

(e) Sells, offers or exposes for sale mislabeled commodities.

(2) Deceptive business practices is a Class A misdemeanor.

KRS 517.030 False advertising

(1) A person is guilty of false advertising when, in connection with the promotion of the sale of or to increase the consumption of property or services, he knowingly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.
(2) False advertising is a Class A misdemeanor.

KRS 517.040 Bait advertising

(1) A person is guilty of bait advertising when in any manner, including advertising or other means of communication, he offers to the public or a substantial number of persons, property or services as part of a scheme or plan with the intent not to sell or provide the advertised property or services:
    (a) At the price at which he offered them; or
    (b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
    (c) At all.
(2) Bait advertising is a Class A misdemeanor.

KRS 517.050 Falsifying business records

(1) A person is guilty of falsifying business records when, with intent to defraud, he:
    (a) Makes or causes a false entry to be made in the business records of an enterprise; or
    (b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or
    (c) Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or
    (d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.
(2) Falsifying business records is a Class A misdemeanor,

KRS 517.060 Defrauding secured creditors

(1) A person is guilty of defrauding secured creditors when he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with intent unlawfully to hinder enforcement of that interest.
(2) Defrauding secured creditors is a Class A misdemeanor unless the value of the property subject to the security interest is one hundred dollars ($100) or more, in which case it is a Class D felony.

KRS 517.070 Defrauding judgment creditors

(1) A person is guilty of defrauding judgment creditors when he secretes, assigns, conveys or otherwise disposes of his property with intent to defraud a judgment creditor or to prevent that property from being subjected to payment of a judgment.
(2) Defrauding judgment creditors is a Class A misdemeanor.

KRS 517.080 Fraud in insolvency

(1) A person is guilty of fraud in insolvency when, knowing that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, or that any other composition or liquidation for the benefit of creditors has been or is about to be made, he:
   (a) Destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with intent to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or
   (b) Knowingly falsifies any writing or record relating to the property; or
   (c) Knowingly misrepresents or refuses to disclose to a receiver or other person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor would be legally required to furnish to such administrator.

(2) Fraud in insolvency is a Class A misdemeanor.

KRS 517.090 Issuing a false financial statement

(1) A person is guilty of issuing a false financial statement when, with intent to defraud, he:
   (a) Knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of himself or of some other person and which is inaccurate in some material respect; or
   (b) Represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to that person's financial condition or ability to pay, knowing the instrument to be materially inaccurate in that respect.

(2) Issuing a false financial statement is a Class A misdemeanor.

KRS 517.100 Receiving deposits in failing financial institution

(1) A person is guilty of receiving deposits in a failing financial institution when, as an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent.

(2) A financial institution is insolvent within the meaning of this section when it is unable to pay its obligations in the ordinary or usual course of business for any reason.

(3) Receiving deposits in a failing financial institution is a Class D felony.

KRS 517.110 Misapplication of entrusted property

(1) A person is guilty of misapplication of entrusted property when he applies or disposes of property that has been entrusted to him as a fiduciary, or property of the government or of a financial institution in a manner which he knows is unauthorized and involves substantial risk of loss or detriment to the owner of the property or to a person for whose benefit the property was entrusted.

(2) Misapplication of entrusted property is a Class A misdemeanor.

KRS 517.120 Operating a sham or front company

(1) A person is guilty of operating a sham or front company when he knowingly:
   (a) Establishes;
   (b) Assists in the establishment of;
   (c) Operates; or
   (d) Assists in the operation of;
   a sham or front company.

(2) Operating a sham or front company is a Class D felony.

KRS CHAPTER 518

MISCELLANEOUS CRIMES AFFECTING BUSINESSES, OCCUPATIONS AND PROFESSIONS

KRS 518.010 Definitions for chapter

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Event" means a sports contest or other public performance to which the general public is not admitted without consideration.

(3) "Public performance" means any form of entertainment other than a sports contest involving machines, persons, animals, or objects that is viewed by the public.

(4) "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, animals, or objects that is viewed by the public.

(5) "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, or judge, or otherwise to officiate at a sports contest.

(6) "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant, or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant, or team.

KRS 518.020 Commercial bribery

(1) A person is guilty of commercial bribery when he:

   (a) Offers, confers or agrees to confer any benefit upon any employee or agent without the consent of the latter's employer or principal with intent to influence his conduct contrary to his employer's or principal's best interests; or

   (b) Offers, confers or agrees to confer any benefit upon any fiduciary without the consent of the latter's beneficiary with intent to influence him to act or conduct himself contrary to his fiduciary obligation.

(2) Commercial bribery is a Class A misdemeanor.

KRS 518.030 Receiving a commercial bribe

(1) A person is guilty of receiving a commercial bribe when:

   (a) As an employee or agent, and without the consent of his employer or principal, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his employer's or principal's best interest; or

   (b) As a fiduciary, and without the consent of his beneficiary, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his fiduciary obligation.

(2) Receiving a commercial bribe is a Class A misdemeanor.

KRS 518.040 Sports bribery

(1) A person is guilty of sports bribery when he:
   (a) Offers, confers or agrees to confer any benefit upon a sports participant with intent to influence him not to give his best effort in a sports contest; or
   (b) Offers, confers or agrees to confer any benefit upon a sports official with intent to influence him to perform his duties improperly.
(2) Sports bribery is a Class D felony.

KRS 518.050 Receiving a sports bribe

(1) A person is guilty of receiving a sports bribe when:
   (a) Being a sports participant, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or
   (b) Being a sports official, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly.
(2) Receiving a sports bribe is a Class D felony.

KRS 518.060 Tampering with or rigging sports contest

(1) A person is guilty of tampering with or rigging a sports contest when, with intent to influence the outcome of a sports contest, he:
   (a) Tampers with any sports participant or sports official or with any animal, equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules governing the sports contest in question; or
   (b) Substitutes a sports participant, animal, other than a horse, equipment or other thing involved in the conduct or operation of a sports contest for the genuine person, animal or thing.
(2) Tampering with or rigging a sports contest is a Class A misdemeanor.

KRS 518.070 Ticket scalping

(1) A person is guilty of ticket scalping when he intentionally sells or offers to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket, unless authorized by the issuer or by law.
(2) Ticket scalping is a violation.

KRS 518.090 Assault of a sports official

(1) A person is guilty of assault of a sports official when he intentionally causes physical injury to a sports official:
   (a) Who was performing sports official duties at the time the physical injury was perpetrated; or
   (b) If the physical injury occurs while the sports official is arriving at or departing from the athletic facility at which the athletic event occurred.
(2) For the purposes of this section, "sports official" means an individual who serves as a referee, umpire, linesman, or in a similar capacity that may be known by another title, and who is duly registered as or is a member of a national, state, regional, or local organization engaged, in part, in providing education and training to sports officials.

(3) A person who is guilty of assault of a sports official shall, for a first offense, be guilty of a Class A misdemeanor, unless the defendant assembles with five (5) or more persons for the purpose of assaulting a sports official, in which case it is a Class D felony.

(4) A person who is guilty of assault of a sports official shall, for a second or subsequent offense, be guilty of a Class D felony.

KRS CHAPTER 519

OBSTRUCTION OF PUBLIC ADMINISTRATION

KRS 519.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "**Governmental function**" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves;

(2) "**Public record**" includes all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, magnetic or electronic images, optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs, or operations funded by state or local authority;

(3) "**Public servant**" means:

   (a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state;

   (b) Any person exercising the functions of any such public officer or employee;

   (c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

   (d) Any person elected, appointed or designated to become a public servant although not yet occupying that position;

(4) As used in this chapter, "**benefit**" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

KRS 519.020 Obstructing governmental operations

(1) A person is guilty of obstructing governmental operations when he intentionally obstructs, impairs or hinders the performance of a governmental function by using or threatening to use violence, force or physical interference.

(2) This section shall not apply to:

   (a) Any means of avoiding compliance with the law without affirmative interference with governmental functions; or

   (b) The obstruction, impairment or hindrance of unlawful action by a public servant; or

   (c) The obstruction, impairment or hindrance of an arrest.

(3) Obstructing governmental operations is a Class A misdemeanor.

KRS 519.030 Compounding a crime

(1) A person is guilty of compounding a crime when:

   (a) He solicits, accepts or agrees to accept any benefit upon an agreement or understanding that he will refrain from initiating a prosecution for a crime; or

   (b) He confers, offers or agrees to confer any benefit upon another person upon agreement or understanding that such other person will refrain from initiating a prosecution for a crime.

(2) In any prosecution under this section it is a defense that the benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the offense.

(3) Compounding a crime is a Class A misdemeanor.

KRS 519.040 Falsely reporting an incident

(1) A person is guilty of falsely reporting an incident when he:
   (a) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, that deals with emergencies involving danger to life or property; or
   (b) Reports to law enforcement authorities an offense or incident within their official concern knowing that it did not occur; or
   (c) Furnishes law enforcement authorities with information allegedly relating to an offense or incident within their official concern when he knows he has no information relating to such offense or incident; or
   (d) Knowingly gives false information to any law enforcement officer with intent to implicate another; or
   (e) Initiates or circulates a report or warning of an alleged occurrence or impending occurrence of a fire or other emergency under circumstances likely to cause public inconvenience or alarm when he knows the information reported, conveyed or circulated is false or baseless.
(2) Falsely reporting an incident is a Class A misdemeanor.

KRS 519.050 Impersonating a public servant

(1) A person is guilty of impersonating a public servant, other than a peace officer, if he pretends to be a public servant, other than a peace officer, or to represent a public agency, other than a law enforcement agency, or act with the authority or approval of a public agency, other than a law enforcement agency, with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.
(2) Impersonating a public servant, other than a peace officer, is a Class A misdemeanor.

KRS 519.055 Impersonating a peace officer

(1) A person is guilty of impersonating a peace officer if he pretends to be a peace officer, or to represent a law enforcement agency or act with the authority or approval of law enforcement agency, with intent to induce another to submit to the pretended official authority or otherwise to act in reliance upon the pretense to his prejudice.
(2) Impersonating a peace officer is a Class D felony.
(3) As used in this section, the phrase "**peace officer**" means a peace officer as defined in KRS 446.010.

KRS 519.060 Tampering with public records

(1) A person is guilty of tampering with public records when:
   (a) He knowingly makes a false entry in or falsely alters any public record; or
   (b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise impairs the availability of any public records; or
   (c) Knowing he lacks the authority to retain it, he intentionally refuses to deliver up a public record In his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes.
(2) Tampering with public records is a Class D felony.

KRS 519.070 Tampering with a prisoner monitoring device

(1) A person is guilty of tampering with a prisoner monitoring device when he or she intentionally alters, disables, deactivates, tampers with, removes, damages, or destroys any device used to facilitate electronic monitoring or supervision of a person who is on probation or parole, or has been ordered to wear a device as a condition of pretrial release.

(2) Tampering with a prisoner monitoring device is a Class D felony.

ESCAPE AND OTHER OFFENSES RELATING TO CUSTODY

KRS 520.010 Definitions

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, any quantity of an alcoholic beverage, and any quantity of marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:
   (a) Charged with or convicted of an offense;
   (b) Alleged or found to be delinquent;
   (c) Held for extradition or as a material witness; or
   (d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained when the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

KRS 520.015 Attempting to escape from penitentiary

(1) A person is guilty of attempting to escape from the penitentiary when he:
   (a) Conceals himself within the walls of the penitentiary; or
   (b) Attempts to scale the enclosure surrounding the penitentiary; or
   (c) Flees from whatever bounds he may be assigned, whether under guard or as a trusty; or
   (d) Escapes from a locked cell, dormitory, hospital or other lockup in the penitentiary; or
   (e) Escapes from one part of the penitentiary to another; or
   (f) Does any other act in furtherance of an escape from the penitentiary; or
   (g) Does any act or omission constituting criminal attempt under KRS 506.010.

(2) Attempting to escape from the penitentiary is a Class D felony.

(3) No penalty provision of KRS 506.010 shall apply to an offense committed under this section.

KRS 520.020 Escape in the first degree

(1) A person is guilty of escape in the first degree when he escapes from custody or a detention facility by the use of force or threat of force against another person.
(2) Escape in the first degree is a Class C felony.

KRS 520.030 Escape in the second degree

(1) A person is guilty of escape in the second degree when he escapes from a detention facility or, being charged with or convicted of a felony, he escapes from custody.
(2) Escape in the second degree is a Class D felony.

KRS 520.040 Escape in the third degree

(1) A person is guilty of escape in the third degree when he escapes from custody.
(2) Escape in the third degree is a Class B misdemeanor.

KRS 520.050 Promoting contraband in the first degree

(1) A person Is guilty of promoting contraband in the first degree when:
    (a) He knowingly introduces dangerous contraband into a detention facility or a penitentiary; or
    (b) Being a person confined in a detention facility or a penitentiary, he knowingly makes, obtains or possesses dangerous contraband.
(2) Promoting contraband in the first degree is a Class D felony.

KRS 520.060 Promoting contraband in the second degree

(1) A person is guilty of promoting contraband in the second degree when:
    (a) He knowingly introduces contraband into a detention facility or a penitentiary; or
    (b) Being a person confined in a detention facility or a penitentiary, he knowingly makes, obtains or possesses contraband.
(2) Promoting contraband in the second degree is a Class A misdemeanor.

KRS 520.070 Bail jumping in the first degree

(1) A person is guilty of bail jumping in the first degree when, having been released from custody by court order, with or without bail, upon condition that
(2) he will subsequently appear at a specified time and place in connection with a charge of having committed a felony, he intentionally fails to appear at that time and place.
(3) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.
(4) Bail jumping in the first degree is a Class D felony.

KRS 520.080 Bail jumping in the second degree

(1) A person is guilty of bail jumping in the second degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a misdemeanor, he intentionally fails to appear at that time and place.
(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.
(3) Bail jumping in the second degree is a Class A misdemeanor.

KRS 520.090 Resisting arrest

(1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be acting under color of his official authority, from effecting an arrest of the actor or another by:
   (a) Using or threatening to use physical force or violence against the peace officer or another; or
   (b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.
(2) Resisting arrest is a Class A misdemeanor.

KRS 520.095 Fleeing or evading police in the first degree

(1) A person is guilty of fleeing or evading police in the first degree when, while operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a police officer, and at least one (1) of the following conditions exists:
   (a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;
   (b) The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;
   (c) The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or
   (d) By fleeing or eluding, the person is the cause, or creates substantial risk, of serious physical injury or death to any person or property; or
(2) When, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:
   (a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or
   (b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of serious physical injury or death to any person or property.
(3) Fleeing or evading police in the first degree is a Class D felony.

KRS 520.100 Fleeing or evading police in the second degree

(1) A person is guilty of fleeing or evading police in the second degree when:
   (a) As a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer who has an articulable reasonable suspicion that a crime has been committed by the person fleeing, and in fleeing or eluding the person is the cause of, or creates a substantial risk of, physical injury to any person; or
   (b) While operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.
(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.
(3) Fleeing or evading police in the second degree is a Class A misdemeanor.

KRS 520.110 Definitions for KRS 520.120 and 520.130

(1) For the purposes of KRS 520.120 and 520.130, a person renders assistance to another when he:
   (a) Harbors or conceals such person; or
   (b) Warns such person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with law; or
   (c) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension, or
   (d) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person; or
   (e) Volunteers false information to a law enforcement officer; or
   (f) Suppresses by an act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of such person.

(2) In any prosecution for hindering prosecution or apprehension it is a defense that the accused is the spouse, parent, child, brother, sister, grandparent or grandchild of the person whose discovery or apprehension he sought to prevent.

KRS 520.120 Hindering prosecution or apprehension in the first degree

(1) A person is guilty of hindering prosecution or apprehension in the first degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another whom he knows is being sought in connection with the commission of a capital offense or Class A felony, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the first degree is a Class D felony.

KRS 520.130 Hindering prosecution or apprehension in the second degree

(1) A person is guilty of hindering prosecution or apprehension in the second degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another who is being sought in connection with the commission of a criminal offense, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the second degree is a Class A misdemeanor.

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KRS CHAPTER 521

BRIBERY AND CORRUPT INFLUENCES

KRS 521.010 Definitions

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:
   (a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or
   (b) Any person exercising the functions of any such public officer or employee; or
   (c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or
   (d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

KRS 521.020 Bribery of public servant

(1) A person is guilty of bribery of a public servant when:
   (a) He offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion. judgment, exercise of discretion or other action in his official capacity as a public servant; or
   (b) While a public servant, he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced.

(2) It is a defense under this section if a person confers or agrees to confer any pecuniary benefit upon a public servant as a result of conduct of the public servant which constitutes extortion or coercion.

(3) It is no defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because he had not yet assumed office, lacked jurisdiction, or for any other reason.

(4) Bribery of a public servant is a Class C felony.

KRS 521.030 Soliciting unlawful compensation

(1) A public servant is guilty of soliciting unlawful compensation when he requests a pecuniary benefit for the performance of an official action knowing that he was required to perform that action without compensation or at a level of compensation lower than that requested.

(2) Solicitation of unlawful compensation is a Class B misdemeanor.

KRS 521.040 Unlawful compensation for assistance in public matters

(1) A person is guilty of unlawful compensation for assistance in public matters when:
   (a) While a public servant, he solicits, accepts or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim or other transaction or proposal as to which he knows that he is likely to have an official discretion to exercise; or
   (b) He offers, pays or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction with knowledge that acceptance by the public servant is unlawful.

(2) Unlawful compensation for assistance in public matters is a Class A misdemeanor.

KRS 521.050 Providing a pecuniary benefit for bribery of a public servant

(1) A person is guilty of providing a pecuniary benefit for bribery of a public servant when, while not engaging in the bribery directly, he intentionally provides the pecuniary benefit to the person who offers or accepts the bribe.
(2) It is a defense under this section if a person provides the pecuniary benefit, confers, or agrees to confer any pecuniary benefit upon a public servant as a result of conduct of the public servant which constitutes extortion or coercion.
(3) It is no defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because he had not yet assumed office, because he lacked jurisdiction, or for any other reason.
(4) Providing a pecuniary benefit for bribery of a public servant is a Class C felony.

KRS CHAPTER 522

ABUSE OF PUBLIC OFFICE

KRS 522.010 Definitions

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:
   (a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or
   (b) Any person exercising the functions of any such public officer or employee; or
   (c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or
   (d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

KRS 522.020 Official misconduct in the first degree

(1) A public servant is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:
   (a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or
   (b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or
   (c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the first degree is a Class A misdemeanor.

KRS 522.030 Official misconduct in the second degree

(1) A public servant is guilty of official misconduct in the second degree when he knowingly:
   (a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions or
   (b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or
   (c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the second degree is a Class B misdemeanor.

KRS 522.040 Misuse of confidential information

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:
   (a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action; or
   (b) Speculates or wagers on the basis of such information or official action; or
   (c) Aids another to do any of the foregoing.

(2) Misuse of confidential information is a Class D felony.

PERJURY AND RELATED OFFENSES

KRS 523.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "**Material false statement**" means any false statement, regardless of its admissibility under the rules of evidence which could have affected the outcome of the proceeding. Whether a falsification is material in a given factual situation is a question of law.

(2) "**Oath**" means an affirmation or other legally authorized manner of attesting to the truth of a statement. A written statement shall be treated as if made under oath when:
   - (a) The statement was made on or pursuant to a form bearing notice, authorized by law, that false statements made therein are punishable; or
   - (b) 1. The document recites that the statement was made under oath, and
     - 2. a. The declarant was aware of such recitation at the time he made the statement;
       - b. The declarant intended that the statement be represented as sworn; and
       - c. The statement was in fact so represented by its delivery or utterance with the signed jurat of an officer, authorized to administer oaths appended thereto.

(3) "**Official proceeding**" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(4) "**Required or authorized by law**" means the oath is provided for by statute, regulation, court rule, or otherwise by law.

(5) "**Statement**" means any representation, but includes a representation of opinion, belief or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

(6) "**Public servant**" means:
   - (a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or
   - (b) Any person exercising the functions of any such public officer or employee; or
   - (c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or
   - (d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

KRS 523.020 Perjury in the first degree

(1) A person is guilty of perjury in the first degree when he makes a material false statement which he does not believe in any official proceeding under an oath required or authorized by law; or

(2) When he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law, with the intent to mislead a public servant in the performance of his official functions when such person is subscribing a warrant accusing his spouse of an offense under KRS Chapter 510.

(3) Perjury in the first degree is a Class D felony.

KRS 523.030 Perjury in the second degree

(1) A person is guilty of perjury in the second degree when he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law with the intent to mislead a public servant in the performance of his official functions.
(2) Perjury in the second degree is a Class A misdemeanor.

KRS 523.040 False swearing

(1) A person is guilty of false swearing when he makes a false statement which he does not believe under oath required or authorized by law.
(2) False swearing is a Class B misdemeanor.

KRS 523.050 Inconsistent statements

(1) When a person has made inconsistent statements under oath, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single charge alleging in the alternative that one (1) or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one (1) or the other was false and not believed by the defendant to be true.
(2) The highest offense of which a person may be convicted in such an instance shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two (2) statements, the person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two (2) statements, the person may only be convicted of false swearing.

KRS 523.060 Corroboration

In any prosecution for perjury or false swearing, except prosecution based upon inconsistent statements pursuant to KRS 523.050, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

KRS 523.070 Previous trial

No prosecution shall be brought under this chapter when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

KRS 523.080 Irregularities--No defense

It is not a defense to prosecution under this chapter that:
(1) The oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement; or
(2) The court in which the acts constituting the offense were committed lacked jurisdiction over the person of the accused or the subject matter.

KRS 523.090 Retraction

No person shall be guilty of an offense under this chapter if he retracted the falsification in the course of the proceeding in which it was made before such false statement substantially affected the proceeding and before it became manifest that its falsity was or would be exposed.

KRS 523.100 Unsworn falsification to authorities

(1) A person is guilty of unsworn falsification to authorities when with an intent to mislead a public servant in the performance of his duty he:
   (a) Makes a material false written statement which he does not believe in an application for any pecuniary or other benefit or in a record required by law to be submitted to any governmental agency;
   (b) Submits or invites reliance on any writing which he knows to be a forged instrument as defined in KRS 516.010; or
   (c) Submits or invites reliance, except as provided in KRS 516.108, on any sample, specimen, map, boundary mark or other object he knows to be false.

(2) Unsworn falsification to authorities is a Class B misdemeanor.

KRS 523.110 Giving peace officer a false name or address

(1) A person is guilty of giving a peace officer a false name or address when he gives a false name or address to a peace officer who has asked for the same in the lawful discharge of his official duties with the intent to mislead the officer as to his identity. The provisions of this section shall not apply unless the peace officer has first warned the person whose identification he is seeking that giving a false name or address is a criminal offense.

(2) Giving a peace officer a false name or address is a Class B Misdemeanor.

INTERFERENCE WITH JUDICIAL ADMINISTRATION

KRS 524.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Judge" means, with reference to intimidating a participant in the legal process, any current justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding of or authorized by the Court of Justice. With reference to retaliating against a participant in the legal process, the term "judge" also includes a former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding authorized by the Court of Justice. The term includes persons who have been elected or appointed, but have not yet taken office.

(2) "Juror" means a person who is or has been a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(3) "Participant in the legal process" means any judge, prosecutor, attorney defending a criminal case, juror, or witness and includes members of the participant's immediate family.

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(5) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(6) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(7) "Prosecutor" means, with reference to intimidating a participant in the legal process, a current Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law. With reference to retaliating against a participant in the legal process, the term "prosecutor" also includes a former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.

(8) "Threat" means any direct threat to kill or injure a person protected by this chapter or an immediate family member of such a person. Persons protected by this chapter include persons who have been elected or appointed but have not yet taken office.

(9) "Witness" means any person who may be called to testify in an official proceeding, has been called to testify in an official proceeding, is testifying in an official proceeding, or who has testified in an official proceeding.

KRS 524.020 Bribing a witness

(1) A person is guilty of bribing a witness when he offers, confers or agrees to confer any pecuniary benefit upon a witness or a person he believes may be called as a witness in any official proceeding with intent to:
   (a) Influence the testimony of that person; or
   (b) Induce that person to avoid legal process summoning him to testify; or

(c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a Class D felony.

KRS 524.030 Bribe receiving by a witness

(1) A witness or a person believing he may be called as a witness in any official proceeding is guilty of bribe receiving by a witness when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that:
   (a) His testimony will thereby be influenced; or
   (b) He will attempt to avoid legal process summoning him to testify; or
   (c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribe receiving by a witness is a Class D felony.

KRS 524.040 Intimidating a participant in the legal process

(1) A person is guilty of intimidating a participant in the legal process when, by use of physical force or a threat directed to a person he believes to be a participant in the legal process, he or she:
   (a) Influences, or attempts to influence, the testimony, vote, decision, or opinion of that person;
   (b) Induces, or attempts to induce, that person to avoid legal process summoning him or her to testify;
   (c) Induces, or attempts to induce, that person to absent himself or herself from an official proceeding to which he has been legally summoned;
   (d) Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;
   (e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or
   (f) Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings.

(2) For purposes of this section:
   (a) An official proceeding need not be pending or about to be instituted at the time of the offense; and
   (b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3) Intimidating a participant in the legal process is a Class D felony.

(4) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.

KRS 524.050 Tampering with a witness

(1) A person is guilty of tempering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

(a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or
(b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.

(2) Tampering with a witness is a Class D felony.

KRS 524.055 Retaliating against a participant in the legal process

(1) A person is guilty of retaliating against a participant in the legal process when he or she engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a participant in the legal process or a person he or she believes may be called as a participant in the legal process in any official proceeding or because the person has participated in a legal proceeding:
(a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding;
(b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;
(c) Vote, decision, or opinion; or
(d) Performance of his or her duty.

(2) Retaliating against a participant in the legal process is a Class D felony.

(3) In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.

KRS 524.060 Bribing a juror

(1) A person is guilty of bribing a juror when he offers, confers or agrees to confer any pecuniary benefit upon a juror with intent to influence the juror's vote, opinion, decision or other action as a juror.

(2) Bribing a juror is a Class D felony.

KRS 524.070 Bribe receiving by a juror

(1) A person is guilty of bribe receiving by a juror when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, decision or other action as a juror will thereby be influenced.

(2) Bribe receiving by a juror is a Class D felony.

KRS 524.090 Jury tampering

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class D felony.

KRS 524.100 Tampering with physical evidence

(1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he:

a) Destroys, mutilates, conceals, removes or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or
(b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered.

(2) Tampering with physical evidence is a Class D felony.

KRS 524.110 Simulating legal process

(1) A person is guilty of simulating legal process when he delivers or causes to be delivered to another a request for the payment of money on behalf of a creditor knowing that in form and substance it simulates any legal process issued by any court of this state.
(2) Simulating legal process is a Class B misdemeanor.

KRS 524.130 Unlawful practice of law

(1) Except as provided in KRS 341.470 and subsection (2) of this section, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court.
(2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.
(3) Unlawful practice of law is a Class B misdemeanor.

KRS 524.140 Disposal of evidence that may be subject to DNA testing – Motion to destroy – Liability for destruction –Penalty – Retention of biological material

(1) As used in this section:
(a) "Defendant" means a person charged with a:
1. Capital offense, Class A felony, Class B felony, or Class C felony; or
2. Class D felony under KRS Chapter 510; and
(b) "Following trial" means after:
1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or
2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

(2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:
(a) The prosecution has determined that the defendant will not be tried for the criminal offense;
(b) The prosecution has made a motion before the court in which the case would have been tried to destroy the evidence; and
(c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order.

(3) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of

following the trial unless:

(a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;

(b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;

(c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or

(d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.

(4) The burden of proof for a motion to destroy evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.

(5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met:

(a) The Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or

(b) If the Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:

1. That the entire sample of evidence may be destroyed by the testing and analysis;
2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;
3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and
4. The Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or

(c) If the Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.

(6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.

(7) Subject to KRS 17.172(6), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis

KRS CHAPTER 525
RIOT, DISORDERLY CONDUCT AND RELATED OFFENSES

KRS 525.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover his action.

(2) "Public" means affecting or likely to affect a substantial group of persons.

(3) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

(4) "Transportation facility" means any conveyance, premises, or place used for or in connection with public passenger transportation by air, railroad, motor vehicle, or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad, and bus terminals and stations and all appurtenances thereto.

(5) "Riot" means a public disturbance involving an assemblage of five (5) or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

(6) "Service animal" includes a:

(a) "Bomb detection dog," which means a dog that is trained to locate bombs or explosives by scent;

(b) "Narcotic detection dog," which means a dog that is trained to locate narcotics by scent;

(c) "Patrol dog," which means a dog that is trained to protect a peace officer and to apprehend a person;

(d) "Tracking dog," which means a dog that is trained to track and find a missing person, escaped inmate, or fleeing felon;

(e) "Search and rescue dog," which means a dog that is trained to locate lost or missing persons, victims of natural or man-made disasters, and human bodies;

(f) "Accelerant detection dog," which means a dog that is trained for accelerant detection, commonly referred to as arson canines;

(g) "Cadaver dog," which means a dog that is trained to find human remains;

(h) "Assistance dog," which means any dog that is trained to meet the requirements of KRS 258.500;

(i) Any dog that is trained in more than one (1) of the disciplines specified in paragraphs (a) to (h) of this subsection; or

(j) "Police horse," which means any horse that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in detection of criminal activity, enforcement of laws, and apprehension of offenders.

KRS 525.020 Riot in the first degree

(1) A person is guilty of riot in the first degree when:
   (a) He knowingly participates in a riot; and
   (b) In the course of and as a result of such riot a person other than one of the participants suffers physical injury or substantial property damage occurs.
(2) Riot in the first degree is a Class D felony.

KRS 525.030 Riot in the second degree

(1) A person is guilty of riot in the second degree when he knowingly participates in a riot.
(2) Riot in the second degree is a Class A misdemeanor.

KRS 525.040 Inciting to riot

(1) A person is guilty of inciting to riot when he incites or urges five or more persons to create or engage in a riot.
(2) Inciting to riot is a Class A misdemeanor.

KRS 525.050 Unlawful assembly

(1) A person is guilty of unlawful assembly when:
   (a) He assembles with five or more persons for the purpose of engaging or preparing to engage with them in a riot; or
   (b) Being present at an assembly which either has or develops such a purpose, he remains there with intent to advance that purpose.
(2) Unlawful assembly is a Class B misdemeanor.

KRS 525.055 Disorderly Conduct in the first degree

(1) A person is guilty of disorderly conduct in the first degree when he or she:
   (a) In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:
      1. Engages in fighting or in violent, tumultuous, or threatening behavior;
      2. Makes unreasonable noise; or
      3. Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and
   (b) Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:
      1. Cemetery during a funeral or burial;
      2. Funeral home during the viewing of a deceased person;
      3. Funeral procession;
      4. Funeral or memorial service; or
      5. Building in which a funeral or memorial service is being conducted; and
   (c) Acts in a way described in paragraph (a) of this subsection at any point in time between one (1) hour prior to the commencement of an event specified in paragraph (b) of this subsection and one (1) hour following its conclusion; and
   (d) Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.
(2) Disorderly conduct in the first degree is a Class A misdemeanor.

KRS 525.060 Disorderly conduct in the second degree

(1) A person is guilty of disorderly conduct in the second degree when in a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof, he:
   (a) Engages in fighting or in violent, tumultuous, or threatening behavior;
   (b) Makes unreasonable noise;
   (c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
   (d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) Disorderly conduct in the second degree is a Class B misdemeanor.

KRS 525.070 Harassment

(1) A person is guilty of harassment when with intent to intimidate, harass, annoy or alarm another person he or she:
   (a) Strikes, shoves, kicks or otherwise subjects him to physical contact; or
   (b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact; or
   (c) In a public place, makes an offensively coarse utterance, gesture or display, or addresses abusive language to any person present; or

   EDITOR'S NOTE: The Kentucky Supreme Court ruled subsection (1) (c) to be too broad and vague, thus unconstitutional. Musselman v. Com., 705 S.W.2d 476 (Ky. 1986).

   (d) Follows a person in or about a public place or places; or
   (e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose; or
   (f) Being enrolled as a student in a local school district, and while on school premises, on school-sponsored transportation, or at a school-sponsored event:
      1. Damages or commits a theft of the property of another student;
      2. Substantially disrupts the operation of the school; or
      3. Creates a hostile environment by means of any gestures, written communications, oral statements, or physical acts that a reasonable person under the circumstances should know would cause another student to suffer fear of physical harm, intimidation, humiliation, or embarrassment.

(2) (a) Except as provided in paragraph (b) of this subsection, harassment is a violation.
   (b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor

KRS 525.080 Harassing communications

(1) A person is guilty of harassing communications when with intent to intimidate, harass, annoy or alarm another person he or she:
   (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;
   (b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; or
   (c) Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a

manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

KRS 525.090 Loitering

(1) A person is guilty of loitering when he:
   (a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505; or
   (b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance: or
   (c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or
   (d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

KRS 525.100 Public intoxication

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of a controlled substance, or other intoxicating substance, excluding alcohol (unless the alcohol is present in combination with any of the above), not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

EDITOR'S NOTE: If alcohol is the only intoxicating substance involved, charge with violation of KRS 222.202(1) – Alcohol Intoxication; KRS 222.202(2) – Drinking Alcoholic Beverage in a Public Place; or KRS 189.530(2) – Possession of Alcoholic Beverages in an Open Container on a Highway.

KRS 525.105 Desecration of venerated objects in the first degree

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains.

(2) Desecration of venerated objects in the first degree is a Class C felony.

KRS 525.110 Desecration of venerated objects in the second degree

(1) A person is guilty of desecration of venerated objects in the second degree when he intentionally:
   (a) Desecrates any public monument or object or place of worship; or
   (b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

KRS 525.113 Institutional vandalism

(1) A person is guilty of institutional vandalism when he, because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, knowingly vandalizes, defaces, damages, or desecrates objects defined in KRS 525.110.
(2) Institutional vandalism is a Class D felony.

KRS 525.115 Violating graves

(1) A person is guilty of violating graves when he intentionally:
   (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulchre; or
   (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or
   (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.
(2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
(3) Violating graves is a Class D felony.
(4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

KRS 525.120 Abuse of a corpse

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.
(2) Abuse of a corpse is a Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a Class D felony.

KRS 525.125 Cruelty to animals in the first degree

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:
   (a) The owner of the animal;
   (b) The owner of the property on which the fight is conducted if the owner knows of the fight;
   (c) Anyone who participates in the organization of the fight.
(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.
(3) Cruelty to animals in the first degree is a Class D felony.

KRS 525.130 Cruelty to animals in the second degree

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:
   (a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being, a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing, tormenting. failing to provide adequate food, drink, space or health care, or by any other means; or
   (b) Subjects any animal in his custody to cruel neglect; or
   (c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:
   (a) Pursuant to a license to hunt, fish or trap;
   (b) Incident to the processing as food or for other commercial purposes;
   (c) For humane purposes;
   (d) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

KRS 525.135 Torture of dog or cat.

(1) As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of torture, and a Class D felony if the dog or cat suffers serious physical injury or death as a result of the torture.

(4) Nothing in this section shall apply to the killing or injuring of a dog or cat:
   (a) In accordance with a license to hunt, fish, or trap;
   (b) For humane purposes;
   (c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
   (d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;
   (e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
   (f) In defense of self or another person against an aggressive or diseased dog or cat;
   (g) In defense of a domestic animal against an aggressive or diseased dog or cat;
   (h) For animal or pest control; or
   (i) For any other purpose authorized by law.

(5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

KRS 525.140 Obstructing a highway or other public passage

(1) A person is guilty of obstructing a highway or other public passage when having no legal privilege to do so he, alone or with other persons, intentionally or wantonly renders any highway or public passage impassable without unreasonable inconvenience or hazard.
(2) No person shall be convicted under this section solely because of a gathering of persons to hear him speak or otherwise communicate or solely because of being a member of such a gathering.
(3) An order to disperse issued by a peace officer or other public servant engaged in executing or enforcing the law and addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall not be deemed lawful if the obstruction can be readily remedied by police control of the size or location of the gathering.
(4) Obstructing a highway or other public passage is a Class B misdemeanor.

KRS 525.145 Disrupting meetings and processions in the first degree

(1) A person is guilty of disrupting meetings and processions in the first degree when, with intent to prevent or disrupt a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person, he or she does any act tending to obstruct or interfere with it physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group attending the occasion.
(2) Disrupting meetings and processions in the first degree is a Class A misdemeanor.

KRS 525.150 Disrupting meetings and processions in the second degree

(1) A person is guilty of disrupting meetings and processions in the second degree when, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he or she does any act tending to obstruct or interfere with it physically or makes any utterance, gesture, or display designed to outrage the sensibilities of the group.
(2) Disrupting meetings and processions in the second degree is a Class B misdemeanor.

KRS 525.160 Failure to disperse

(1) A person is guilty of failure to disperse if he participates with two or more persons in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance or alarm, and intentionally refuses to disperse when ordered to do so by a peace officer or other public servant engaged in executing or enforcing the law.
(2) Failure to disperse is a Class B misdemeanor.

KRS 525.200 Assault on a service animal in the first degree

(1) A person is guilty of assault on a service animal in the first degree when he intentionally and without legal justification or lawful authority kills or causes physical injury to a service animal to the extent that a service animal becomes physically incapable of ever returning to service.
(2) Assault on a service animal in the first degree is a Class D felony.

KRS 525.205 Assault on a service animal in the second degree

(1) A person is guilty of assault on a service animal in the second degree when he intentionally and without legal justification or lawful authority causes physical injury to a service animal.
(2) Assault on a service animal in the second degree is a Class B misdemeanor.

KRS 525.210 Duty status of service animal

KRS 525.200 and 525.205 shall apply whether or not the service animal is on duty or off duty.

KRS 525.215 Restitution

In any case in which a defendant is convicted of a violation of the provisions of KRS 525.200 or 525.205, the defendant may be ordered to make restitution to the person or agency owning the animal for any veterinary bills, replacement costs of the animal if it is disabled or killed, and the salary of the animal handler for the period of time his services are lost to the agency or self-employment.

KRS 525.220 Exemptions

No person shall be convicted of assault on a service animal when:
(1) He has been convicted of a violation of KRS 525.125, 525.130, 512.020, 512.030, or 512.040 arising out of the same incident; or
(2) He has destroyed or treated a service animal that is injured, diseased, or suffering or which constitutes a hazard to public safety if not destroyed; or
(3) He has used physical force against the service animal in protection of himself or a third person; or
(4) He has used physical force without knowledge that the animal was a service animal.

KRS CHAPTER 526
EAVESDROPPING

KRS 526.010 Definition

The following definition applies in this chapter, unless the context otherwise requires:

"Eavesdrop" means to overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one (1) party thereto by means of any electronic, mechanical or other device.

KRS 526.020 Eavesdropping

(1) A person is guilty of eavesdropping when he intentionally uses any device to eavesdrop, whether or not he is present at the time.
(2) Eavesdropping is a Class D felony.

KRS 526.030 Installing eavesdropping device

(1) A person is guilty of installing an eavesdropping device when he intentionally installs or places such a device in any place with the know edge that it is to be used for eavesdropping.
(2) Installing an eavesdropping device is a Class D felony.

KRS 526.040 Possession of eavesdropping device

(1) A person is guilty of possession of an eavesdropping device when he possesses any electronic, mechanical or other device designed or commonly used for eavesdropping with intent to use that device to eavesdrop or knowing that another intends to use that device to eavesdrop.
(2) Possession of an eavesdropping device is a Class A misdemeanor.

KRS 526.050 Tampering with private communications

(1) A person is guilty of tampering with private communications when knowing that he does not have the consent of the sender or receiver. he unlawfully:
    (a) Opens or reads a sealed letter or other sealed private communication; or
    (b) Obtains in any manner from an employee, officer or representative of a communications common carrier information with respect to the contents or nature of a communication.
(2) The provisions of this section do not apply to the censoring of sealed letters or sealed communications for security purposes in official detention or penal facilities.
(3) Tampering with private communications is a Class A misdemeanor.

KRS 526.060 Divulging illegally obtained information

(1) A person is guilty of divulging illegally obtained information when he knowingly uses or divulges information obtained through eavesdropping or tampering with private communications or learned in the course of employment with a communications common carrier engaged in transmitting the message.
(2) Divulging illegally obtained information is a Class A misdemeanor.

KRS 526.070 Eavesdropping exceptions

A person is not guilty under this chapter when he:

(1) Inadvertently overhears the communication through a regularly installed telephone party line or on a telephone extension but does not divulge it; or

(2) Is an employee of a communications common carrier who while acting in the course of his employment, intercepts, discloses or uses a communication transmitted through the facilities of his employer for a purpose which is a necessary incident to the rendition of the service or to the protection of the rights of the property of the carrier of such communication, provided however that communications common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

KRS 526.080 Forfeiture

Any electronic, mechanical or other device designed or commonly used for eavesdropping which is possessed or used in violation of this chapter, is forfeited to the state and shall be disposed of in accordance with KRS 500.090.

KRS CHAPTER 527
OFFENSES RELATING TO FIREARMS AND WEAPONS

KRS 527.010 Definitions for chapter

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Booby trap device" shall have the same meaning as set forth in KRS 237.030.
(2) "Deface" means to remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
(3) "Destructive device" shall have the same meaning as set forth in KRS 237.030.
(4) "Firearm" means any weapon which will expel a projectile by the action of an explosive.
(5) "Handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

KRS 527.020 Carrying concealed deadly weapon

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.
(2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
(3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
(5) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without limitation:
    (a) A Commonwealth's attorney or assistant Commonwealth's attorney;
    (b) A county attorney or assistant county attorney;
    (c) A justice or judge of the Court of Justice; and
    (d) A retired or senior status justice or judge of the Court of Justice.

A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.

(6) The following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
   (a) An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
   (b) An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer;
   (c) The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed;

(7) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(9) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

KRS 527.030 Defacing a firearm

(1) A person is guilty of defacing a firearm when he intentionally defaces a firearm.

(2) Defacing a firearm is a Class A misdemeanor.

KRS 527.040 Possession of firearm by convicted felon

(1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States;
(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968 as amended.

(2) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.
(3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.
(4) The provisions of this section with respect to handguns shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

KRS 527.050 Possession of a defaced firearm

(1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.
(2) Possession of a defaced firearm is a Class A misdemeanor.

KRS 527.060 Forfeiture

Upon the conviction of any person for the violation of any law of this Commonwealth in which a deadly weapon was used, displayed or unlawfully possessed by such person the court shall order the weapon forfeited to the state and sold, destroyed or otherwise disposed of in accordance with KRS 500.090.

KRS 527.070 Unlawful possession of a weapon on school property

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.
(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A TEN THOUSAND DOLLAR ($10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.
(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:
(a) An adult who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;
(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;
(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;
(e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;
(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the board of education or board of trustees of the public or private institution;
(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;
(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or
(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the board of education or board of trustees of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony.

KRS 527.080 Using restricted ammunition during the commission of a crime

(1) A person is guilty of using restricted ammunition during the commission of a crime when he commits any felony offense under this code and is armed at the time of the commission of the offense or in the immediate flight therefrom with a firearm loaded, as defined in KRS 237.060, with armor-piercing ammunition as defined in KRS 237.060 or flanged ammunition as defined in KRS 237.060.
(2) Using restricted ammunition during the commission of a crime is:
(a) A Class D felony if no shot is fired;
(b) A Class C felony if a shot is fired and no person is killed or wounded thereby;
(c) A Class B felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is wounded by the shot; and
(d) A Class A felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is killed by the shot.
(3) The provisions of this section are intended to be a separate offense from the underlying crime, which shall be punished separately. If a person is convicted of this offense, his sentence shall be served consecutively to the sentence for the underlying offense.
(4) The provisions of this section shall not apply to any person who is justified in acting pursuant to the provisions of KRS Chapter 503.

KRS 527.100 Possession of a handgun by a minor

(1) A person is guilty of possession of a handgun by a minor when, being under the age of eighteen (18) years, he possesses, manufactures, or transports a handgun as defined by KRS 527.010, except when the person is:
   (a) In attendance at a hunter's safety course or a firearms safety course;
   (b) Engaging in practice in the use of a firearm, or target shooting at an established firing range, or any other area where the discharge of a firearm is not prohibited;
   (c) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by a group organized under Section 501(c)(3) of the Internal Revenue Code or any successor thereto which uses firearms as a part of the performance;
   (d) Hunting or trapping pursuant to a valid license issued to him pursuant to the statutes or administrative regulations of this Commonwealth;
   (e) Traveling to or from any activity described in paragraphs (a) to (d) of this subsection with any unloaded handgun in his possession;
   (f) On real property which is under the control of an adult and has the permission of that adult and his parent or legal guardian to possess a handgun; or
   (g) At his residence and with the permission of his parent or legal guardian possesses a handgun and is justified under the principles of justification set forth in KRS Chapter 503 in using physical force or deadly physical force.

(2) For the purposes of subsection (1) of this section, a handgun is "loaded" if:
   (a) There is a cartridge in the chamber of the handgun; or
   (b) There is a cartridge in the cylinder of the handgun, if the handgun is a revolver; or
   (c) There is a cartridge in the magazine of a semiautomatic handgun, if the magazine is attached to the handgun; or
   (d) The handgun and the ammunition for the handgun, are carried on the person of one under the age of eighteen (18) years or are in such close proximity to him that he could readily gain access to the handgun and the ammunition and load the handgun.

(3) Possession of a handgun by a minor is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

KRS 527.110 Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun

(1) A person is guilty of unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun when he:
   (a) Intentionally, knowingly, or recklessly provides a handgun, with or without remuneration, in violation of KRS 527.040, 527.100, or 600.020 to any person he knows or has reason to believe is under the age of eighteen (18) years; or
   (b) Is the parent or legal guardian of a juvenile and intentionally, knowingly, or recklessly provides a handgun to the juvenile or permits the juvenile to possess a handgun knowing that there is a substantial risk that the juvenile will use a handgun to commit a felony offense; or, with knowledge that the juvenile has been convicted of a crime of violence as defined in KRS 439.3401 or has been adjudicated a public offender of an offense which would constitute a crime of violence as defined in KRS 439.3401, provides a handgun to that juvenile.

(2) Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun is a Class D felony.

KRS 527.200 Use of a weapon of mass destruction in the first degree

(1) A person is guilty of use of a weapon of mass destruction in the first degree when he or she intentionally, without lawful authority, places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant is killed or receives serious physical injury.
(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.
(3) Use of a weapon of mass destruction in the first degree is a Class A felony unless a person other than the defendant is killed as a result, in which case it is a capital offense.

KRS 527.205 Use of a weapon of mass destruction in the second degree

(1) A person is guilty of use of a weapon of mass destruction in the second degree when intentionally, without lawful authority, he or she:
    (a) Places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant receives physical injury; or
    (b) Places a weapon of mass destruction on:
        (1) The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
        (2) A school bus or other vehicle owned, operated, or leased by a school;
        (3) The real property or any building, public or private, that is the site of an official school-sanctioned function: or
        (4) The real property or any building owned or licensed by a government agency. and no person dies or receives any physical injury.
(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.
(3) Use of a weapon of mass destruction in the second degree is a Class B felony.

KRS 527.210 Use of a weapon of mass destruction in the third degree

(1) Except as provided in KRS 527.205, a person is guilty of use of a weapon of mass destruction in the third degree when intentionally, without lawful authority, he or she places a weapon of mass destruction at any location in the Commonwealth.
(2) A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.
(3) Use of a weapon of mass destruction in the third degree is a Class C felony.

KRS 528.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that

can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

3. Devices used in the conduct of charitable gaming.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and
2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and
3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

(10) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

KRS 528.020 Promoting gambling in the first degree

(1) A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by:
   (a) Engaging in bookmaking to the extent that he employs or utilizes three or more persons in a bookmaking activity and receives or accepts in any one day bets totaling more than $500; or
   (b) Receiving in connection with a lottery or mutuel scheme or enterprise:
      (i) Money or written records from a person other than a player whose chances or plays are represented by such money or records; or
      (ii) More than $500 in any one day of money played in the scheme or enterprise; or
   (c) Setting up and operating a gambling device
(2) Promoting gambling in the first degree is a Class D felony

KRS 528.030 Promoting gambling in the second degree

(1) A person is guilty of promoting gambling in the second degree when he knowingly advances or profits from unlawful gambling activity.
(2) Promoting gambling in the second degree is a Class A misdemeanor.

KRS 528.040 Conspiracy to promote gambling

(1) A person is guilty of conspiracy to promote gambling when he conspires to advance or profit from gambling activity.
(2) "Conspire" means to engage in activity constituting a criminal conspiracy as defined in KRS 506.040.
(3) Conspiracy to promote gambling is a Class D felony.

KRS 528.050 Possession of gambling records in the first degree

(1) A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article of a kind commonly used:
   (a) In the operation or promotion of a bookmaking scheme or enterprise and constituting, reflecting or representing bets totaling more than $500; or
   (b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise and constituting, reflecting or representing more than 500 plays or chances therein.
(2) It shall be a defense to any prosecution under this section that:
   (a) The writing, paper, instrument or article possessed by the defendant constituted, reflected or represented bets of the defendant himself in a number not exceeding ten; or
   (b) The writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.
(3) Possession of gambling records in the first degree is a Class D felony.

KRS 528.060 Possession of gambling records in the second degree

(1) A person is guilty of possession of gambling records in the second degree when, with knowledge of the contents thereof he possesses any writing, paper, instrument or articles of a kind commonly used:
   (a) In the operation or promotion of a bookmaking scheme or enterprise; or
   (b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise.
(2) It shall be a defense to any prosecution under this section that:
   (a) The writing, paper, instrument, or article possessed by the defendant constituted, reflected, or represented bets of the defendant himself in a number not exceeding ten: or
   (b) The writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.
(3) Possession of gambling records in the second degree is a Class A misdemeanor.

KRS 528.070 Permitting gambling

(1) A person is guilty of permitting gambling when, having possession or control of premises which he knows are being used to advance gambling activity, he fails to halt or abate or attempt to halt or abate such use within a reasonable period of time.
(2) Permitting gambling is a Class B misdemeanor.

KRS 528.080 Possession of a gambling device

(1) A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses a gambling device or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing that it is to be used in the advancement of unlawful gambling activity.
(2) Possession of a gambling device is a Class A misdemeanor.

KRS 528.090 Prima facie proof

(1) Proof of possession of any gambling device or any gambling record specified in KRS 528.050, 528.060, and 528.080 is prima facie evidence of possession thereof with knowledge of its character or contents.
(2) In any prosecution under this chapter in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation or evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of this chapter is alleged to have been committed shall be admissible in evidence and shall constitute prima facie proof of the occurrence of the event.

KRS 528.100 Forfeiture

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(10).

KRS 528.110 Horse races, messenger betting

(1) Any person who, either for himself or as agent or employee of another, wagers money or anything of value on a horse race run or about to be run or advertised, posted or reported as being run at any race track in or out of this state, or who engages in the occupation of receiving, making, transmitting or negotiating, either in person or by messenger, telephone or telegraph, wagers on horse races run or about to be run or advertised, posted or reported as being run or about to be run at any race track in or out of the state, shall, except in the case of wagers made within the enclosure of a race track licensed by the Kentucky Horse Racing Authority during an authorized race meeting at that track, or an enclosure during regular meetings in which running, trotting or pacing races are being conducted by associations regularly organized for that purpose, be guilty of a Class A misdemeanor.

(2) In any prosecution under subsection (1) of this section, the state need not prove that the horse race upon which the wager was placed was actually run. Proof that the wager was made upon what purported to be or what was advertised, reported or understood to be a horse race shall be sufficient to establish a prima facie case for the state.

KRS 528.120 Off-track acceptance of money for pari-mutuel wagering

(1) No person, as a business or for any compensation, shall, directly or indirectly, accept any thing of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise, or participate in any such transmission.

(2) As used herein, "person" shall mean and include any individual, partnership, association, joint stock association or trust, corporation, or other business entity, whether incorporated or not.

(3) Any person violating any of the provisions of this section shall be guilty of a Class A misdemeanor.

PROSTITUTION OFFENSES

KRS 529.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing prostitution"--A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

(2) "Commercial sexual activity" means prostitution, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;

(3) "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained through force, fraud or coercion;

(4) "Force, fraud, or coercion" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;

(5) "Human trafficking" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
   (a) Forced labor or services; or
   (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;

(6) "Labor" means work of economic or financial value;

(7) "Profiting from prostitution"--A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity.

(8) "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;

(9) "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs; and

(10) "Sexually-explicit performance" means a performance of sexual conduct involving:
   (a) Acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse, or deviate sexual intercourse, actual or simulated;
   (b) Physical contact with, or willful or intentional exhibition of the genitals;
   (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
   (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in a matter of a private, family nature not intended for distribution outside the family.

KRS 529.020 Prostitution

(1) A person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Prostitution is a Class B misdemeanor.

KRS 529.040 Promoting prostitution

(1) A person is guilty of promoting prostitution when he knowingly advances or profits from prostitution.
(2) Promoting prostitution is a Class A misdemeanor, unless the person managed, supervised, controlled or owned, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes, in which case it is a Class D felony.

KRS 529.060 Corroboration

(1) No person shall be convicted of prostitution solely on the uncorroborated testimony of a patron.
(2) No person shall be convicted of promoting prostitution solely on the uncorroborated testimony of a person whose prostitution activity he is alleged to have advanced or from whose prostitution activity he is alleged to have profited.

KRS 529.070 Permitting prostitution

(1) A person is guilty of permitting prostitution when, having possession or control of premises which he knows or has reasonable cause to know are being used for prostitution purposes, he fails to make reasonable and timely effort to halt or abate such use.
(2) Permitting prostitution is a Class B misdemeanor.

KRS 529.080 Loitering for prostitution purposes

(1) A person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.
(2) Loitering for prostitution purposes is a:
    (a) Violation for the first offense;
    (b) Class B misdemeanor for the second offense and each subsequent offense.

KRS 529.090 Persons convicted required to submit to screening for HIV infection – Prostitution or procuring prostitution with knowledge of sexually transmitted disease or HIV

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for Human Resources and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Human Resources to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.
(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 2l4.4l0 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits, offers or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

KRS 529.100 Human trafficking

(1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.

(2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.

(b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one (1) level higher than the level otherwise specified in this section.

KRS 529.110 Promoting Human Trafficking

(1) A person is guilty of promoting human trafficking when the person intentionally:

(a) Benefits financially or receives anything of value from knowing participation in human trafficking; or

(b) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, or provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.

(2) Promoting human trafficking is a Class D felony, unless a victim of the trafficking is under eighteen (18), in which case it is a Class C felony.

KRS 530.010 Bigamy--Defense

(1) A person is guilty of bigamy when he:
   (a) Purports to marry another person knowing he has a husband or wife or knowing the other person has a husband or wife; or
   (b) Cohabits in this state after a bigamous marriage in another state.
(2) It shall be a defense to bigamy that the accused believed he was legally eligible to remarry.
(3) Bigamy is a Class D felony.

KRS 530.020 Incest

(1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he or she knows to be an ancestor, descendant, brother, or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.
(2) (a) Incest is a Class C felony if the act is committed by consenting adults.
   (b) Incest is a Class B felony if committed:
      1. By forcible compulsion as defined in KRS 510.010(2); or
      2. On a victim who is:
         a. Less than eighteen (18) years of age;.
         b. Incapable of consent because he or she is physically helpless or mentally incapacitated.
   (c) Incest is a Class A felony if:
      1. Committed on a victim less than twelve (12) years of age; or
      2. The victim receives serious physical injury.

KRS 530.030 Concealing birth of infant

(1) A person Is guilty of concealing the birth of an infant when he conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.
(2) Concealing the birth of an infant is a Class A misdemeanor.

KRS 530.040 Abandonment of minor

(1) A person is guilty of abandonment of a minor when, as a parent, guardian or other person legally charged with the care or custody of a minor, he deserts the minor in any place under circumstances endangering his life or health and with intent to abandon him.
(2) Abandonment of a minor is a Class D felony.

KRS 530.050 Nonsupport and flagrant nonsupport

(1) A person is guilty of nonsupport:
   (a) When he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent; or
   (b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation

established by such order and has been so delinquent for a period of at least two (2) months duration.

(2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court or administrative order to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent and the failure results in:
   (a) An arrearage of not less than one thousand dollars ($1,000); or
   (b) Six (6) consecutive months without payment of support; or
   (c) The dependent having been placed in destitute circumstances. For the purposes of this paragraph, it shall be prima facie evidence that a dependent has been placed in destitute circumstances if the dependent is a recipient of public assistance as defined in KRS 205.010.

(3) A person has a duty to provide support for an indigent spouse, a minor child or children, or a child or children adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor. For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.

(6) Flagrant nonsupport is a Class D felony.

KRS 530.060 Endangering welfare of minor

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.

(2) Endangering the welfare of a minor is a Class A misdemeanor.

KRS 530.064 Unlawful transaction with a minor in the first degree

(1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
   (a) Illegal sexual activity; or
   (b) Illegal controlled substances activity other than activity involving marijuana;

   Except those offenses involving minors in KRS Chapter 531 *[Pornography]* and in KRS 529.100 where that offense involves commercial sexual activity. *[Human trafficking]*.

(2) Unlawful transaction with a minor in the first degree is a:
   (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
   (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
   (c) Class A felony if the minor so used incurs physical injury thereby.

KRS 530.065 Unlawful transaction with a minor in the second degree

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana, illegal gambling activity, or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

KRS 530.070 Unlawful transaction with a minor in the third degree

(1) A person is guilty of unlawful transaction with a minor in the third degree when:
   (a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or
   (b) He knowingly induces, assists, or causes a minor to engage in any other criminal activity; or
   (c) He knowingly induces, assists or causes a minor to become a habitual truant; or
   (d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.
(2) Unlawful transaction with a minor in the third degree is a Class A misdemeanor.

KRS 530.080 Endangering welfare of incompetent person

(1) A person is guilty of endangering the welfare of an incompetent person when he knowingly acts in a manner which results in an injury to the physical or mental welfare of a person who is unable to care for himself because of mental illness or retardation.
(2) Endangering the welfare of an incompetent person is a Class A misdemeanor.

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KRS 531.010 Definitions

As used in this chapter:

(1) "**Distribute**" means to transfer possession of, whether with or without consideration.

(2) "**Matter**" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "**Obscene**" means:
   (a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and
   (b) The matter depicts or describes the sexual conduct in a patently offensive way; and
   (c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

EDITOR'S NOTE: "What is obscene" requires a judicial decision.

(4) "**Sexual conduct**" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

KRS 531.020 Distribution of obscene matter

(1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character, he:
   (a) Sends or causes to be sent into this state for sale or distribution; or
   (b) Brings or causes to be brought into this state for sale or distribution; or
   (c) In this state, he:
      (i) Prepares, or
      (ii) Publishes, or
      (iii) Prints, or
      (iv) Exhibits, or
      (v) Distributes, or
      (vi) Offers to distribute, or
      (vii) Has in his possession with intent to distribute, exhibit or offer to distribute,
   any obscene matter.

2) Distribution of obscene matter is a Class B misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this chapter, in which case it shall be a Class A misdemeanor.

KRS 531.030 Distribution of obscene matter to minors

(1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly;
   (a) Sends or causes to be sent; or
   (b) Exhibits; or
   (c) Distributes, or offers to distribute,
   obscene material to a minor.

(2) Distribution of obscene materials to minors is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or of KRS 531.020, in which case it shall be a Class D felony.

KRS 531.040 Using minors to distribute obscene material

(1) A person is guilty of using minors to distribute obscene material when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:
   (a) Hires; or
   (b) Employs; or
   (c) Uses;
   a minor to do or assist in doing any of the acts prohibited by KRS 531.020.
(2) Using minors to distribute obscene material is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class D felony.

KRS 531.050 Advertising obscene material

(1) A person is guilty of advertising obscene material when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of obscene matter.
(2) Advertising obscene material is a Class B misdemeanor.

KRS 531.060 Promoting sale of obscenity

(1) A person is guilty of promoting sale of obscenity when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter reasonably believed by the purchaser or consignee to be obscene, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.
(2) Promoting sale of obscenity is a Class B misdemeanor for the first offense; a Class A misdemeanor for the second offense; and a Class D felony for each subsequent offense.

KRS 531.070 Exemptions

The prohibitions and penalties imposed in this chapter shall not extend to persons having a bona fide scientific, educational, governmental, or other similar justification for conduct which would, except for such justification, be criminal under this chapter.

KRS 531.080 Special verdict

(1) The jury, or the court, if a jury trial is waived, shall render a general verdict, and shall also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the _____ (title or description of matter) to be obscene," or, "We find the _____ (title or description of matter) not to be obscene," as they may find each item is or is not obscene.
(2) Whenever a person is tried for distribution of matter portraying a sexual performance by a minor, the jury, or the court, if a jury trial is waived, shall render a special verdict as to

whether the matter named in the charge portrays a sexual performance by a minor. The special verdict or findings on the issue of whether or not the matter portrays a sexual performance by a minor may be: "We find the _____ (title or description of matter) to portray a sexual performance by a minor," or, "We find the _____ (title or description of matter) not to portray a sexual performance by a minor," as they may find each item to portray or not to portray a sexual performance by a minor.

(3) Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the Attorney General, Commonwealth's attorney, county attorney, city attorney or their authorized assistants, or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

KRS 531.090 Voyeurism

(1) A person is guilty of voyeurism when:
   (a) He or she intentionally:
      1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; or
      2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; or
      3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, or nipple of the female breast of another person without the person's consent; and
   (b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.

(2) The provisions of subsection (1) of this section shall not apply to:
   (a) A law enforcement officer during a lawful criminal investigation; or
   (b) An employee of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility whose actions have been authorized for security or investigative purposes.

(3) Unless objected to by the victim or victims of voyeurism, the court on its own motion or on motion of the Commonwealth's attorney shall:
   (a) Order the sealing of all photographs, film, videotapes, or other images that are introduced into evidence during a prosecution under this section or are in the possession of law enforcement, the prosecution, or the court as the result of a prosecution under this section; and
   (b) At the conclusion of a prosecution under this section, unless required for additional prosecutions, order the destruction of all of the photographs, film, videotapes, or other images that are in possession of law enforcement, the prosecution, or the court.

(4) Voyeurism is a Class A misdemeanor.

KRS 531.100 Video voyeurism

(1) A person is guilty of video voyeurism when he or she intentionally:
   (a) Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing,

photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; and

(b) Uses or divulges any image so obtained for consideration; or

(c) Distributes any image so obtained by live or recorded visual medium, electronic mail, the Internet, or a commercial on-line service.

(2) Video voyeurism is a Class D felony.

KRS 531.105 Exemptions

The provisions of KRS 532.100 shall not apply to the transference of prohibited images by a telephone company, a cable television company or any of its affiliates, an Internet provider, or a commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

KRS 531.110 Evidence to be sealed and destroyed

Unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on motion of the attorney for the Commonwealth shall:

(1) Order all photographs, film, videotapes, or other images that are introduced into evidence or are in the possession of law enforcement, the prosecution, or the court to be sealed; and

(2) At the conclusion of the case, unless required for additional prosecutions, order all of the photographs, film, videotapes, or other images that are in the possession of law enforcement, the prosecution, or the court to be destroyed.

SEXUAL EXPLOITATION OF MINORS

KRS 531.300 Definitions for KRS 531.080 and 531.310 to 531.370

As used in KRS 531.080 and 531.310 to 531.370:

(1) "Distribute" means to transfer possession of, whether with or without consideration;

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials;

(3) "Obscene" means the predominate appeal of the matter taken as a whole is to a prurient interest in sexual conduct involving minors;

(4) "Sexual conduct by a minor" means:

(a) Acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;

(b) Physical contact with, or willful or intentional exhibition of the genitals;

(c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family;

(5) "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience;

(6) "Sexual performance" means any performance or part thereof which includes sexual conduct by a minor; and

(7) "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

KRS 531.310 Use of a minor in a sexual performance

(1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.
(2) Use of a minor in a sexual performance is:
   (a) A Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
   (b) A Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
   (c) A Class A felony if the minor so used incurs physical injury thereby.

KRS 531.320 Promoting a sexual performance by a minor

(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.
(2) Promoting a sexual performance by a minor is:
   (a) A Class C felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
   (b) A Class B felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
   (c) A Class A felony if the minor involved in the sexual performance incurs physical injury thereby.

KRS 531.330 Presumptions as to minority

(1) For purposes of KRS 529.040 or 529.100 where the offense involves commercial sexual activity and for the purposes of KRS 530.070, 531.080 and 531.300 to 531.370, any person who appears to be under the age of 18, or under the age of 16, shall be presumed to be under the age of 18, or under the age of 16, as the case may be.
(2) In any prosecution under KRS 529.040 or 529.100 where the offense involves commercial sexual activity by a minor and in any prosecution under KRS 530.070, 531.080 and 531.300 to 531.370, the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.
(3) The presumption raised in subsection (1) of this section may be rebutted by competent evidence.

KRS 531.335 Possession of matter portraying a sexual performance by a minor

(1) A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person.
(2) Possession of matter portraying a sexual performance by a minor is a Class D felony.

KRS 531.340 Distribution of matter portraying a sexual performance by a minor

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:
   (a) Sends or causes to be sent into this state for sale or distribution; or
   (b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he or she:
1. Exhibits for profit or gain; or
2. Distributes; or
3. Offers to distribute; or
4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KRS 531.350 Promoting sale of material portraying a sexual performance by a minor

(1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portraying a sexual performance by a minor, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense, a Class D felony for the second offense, and a Class C felony for each subsequent offense.

KRS 531.360 Advertising material portraying a sexual performance by a minor

(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he or she writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KRS 531.370 Using minors to distribute material portraying a sexual performance by a minor

(1) A person is guilty of using minors to distribute material portraying a sexual performance by a minor when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:
(a) Hires; or
(b) Employs; or
(c) Uses,
a minor to do or assist in doing any of the acts prohibited by KRS 531.340.

(2) Using minors to distribute material portraying a sexual performance by a minor is a Class D felony unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class C felony.

KRS CHAPTER 532

CLASSIFICATION AND DESIGNATION OF OFFENSES – AUTHORIZED DISPOSITION

(Selected Sections)

KRS 532.005 Chapters 532, 533 and 534 to apply to crimes outside provisions of the Penal Code

KRS Chapters 532, 533 and 534 apply to all classes of crimes committed outside the provisions of the Penal Code.

KRS 532.010 Classification of offenses

Felonies are classified, for the purpose of sentencing, into five categories:

(1) Capital offenses;
(2) Class A felonies;
(3) Class B felonies;
(4) Class C felonies; and
(5) Class D felonies.

KRS 532.020 Designation of offenses

(1) Any offense defined outside this code for which a law outside this code provides a sentence to a term of imprisonment in the state for:
   (a) At least one (1) but not more than five (5) years shall be deemed a Class D felony;
   (b) At least five (5) but not more than ten (10) years shall be deemed a Class C felony;
   (c) At least ten (10) but not more than twenty (20) years shall be deemed a Class B felony;
   (d) For at least twenty (20) but not more than fifty (50) years or for life shall be deemed a Class A felony.
(2) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum which falls between ninety (90) days and twelve (12) months shall be deemed a Class A misdemeanor.
(3) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum of less than ninety (90) days shall be deemed a Class B misdemeanor.
(4) Any offense defined outside this code for which a law outside this code provides a sentence to a fine only or to any other punishment, whether in combination with a fine or not, other than death or imprisonment shall be deemed a violation.

KRS 532.025 Presentence hearings – Use of juvenile court records – Aggravating or mitigating circumstances – Instruction to jury

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be

admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. .;

* * * * * * *

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, . . . any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a weapon of mass destruction, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; and
8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;
2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and
8. The youth of the defendant at the time of the crime.

* * * * * *

KRS 532.031 Hate crimes – Finding – Effect

(1) A person may be found by the sentencing judge to have committed an offense specified below as a result of a hate crime if the person intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals violates a provision of any one (1) of the following:
   (a) KRS 508.010, 508.020, 508.025, or 508.030 *[Assault 1st-4th degrees]*;
   (b) KRS 508.050 *[Menacing]* or 508.060 *[Wanton endangerment 1st degree]*;
   (c) KRS 508.100 or 508.110 *[Criminal abuse 1st-2nd degrees)*;
   (d) KRS 509.020 *[Unlawful imprisonment 1st degree]*;
   (e) KRS 510.040, 510.050, 510.060 *[Rape 1st-3rd degree]*, 510.070, 510.080, 510.090, 510.100 *[Sodomy 1st-4th degree]*, or 510.110 *[Sexual abuse 1st degree]*;
   (f) KRS 512.020 *[Criminal mischief 1st degree]*, 512.050 *[Criminal use of a noxious substance]*, or 512.060 *[Criminal possession of noxious substance]*;
   (g) KRS 513.020, 513.030, or 513.040 *[Arson 1st-3rd degree]*; or
   (h) KRS 525.020 *[Riot 1st degree]*, 525.050 *[Unlawful assembly]*, 525.060 *[Disorderly conduct]*, 525.070 *[Harassment]*, or 525.080 *[Harassing communications]*.

* * * * * *

KRS 532.060 Sentence of imprisonment for felony

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.
(2) The authorized maximum terms of imprisonment for felonies are:
   (a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;
   (b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;
   (c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and
   (d) For a Class D felony, not less than one (1) year nor more than five (5) years.
(3) For any felony specified in KRS Chapter 510 *[Sexual Offenses]*, KRS 530.020 *[Incest]*, 530.064 *[Unlawful transaction with a minor 1st Degree]*, or 531.310 *[Use of a minor in a sexual performance]*, the sentence shall include an additional three (3) year period of conditional discharge which shall be added to the maximum sentence rendered for the offense. During this period of conditional discharge, if a defendant violates the provisions of conditional discharge, the defendant may be reincarcerated for:
   (a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of conditional discharge, or if the initial sentence has been served, for the remaining period of conditional discharge.

(4) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

KRS 532.080 Persistent felony offender sentencing

* * * * * *

(2) A **persistent felony offender in the second degree** is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a **previous felony conviction** is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or
3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or
5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A **persistent felony offender in the first degree** is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies. As used in this provision, a **previous felony conviction** is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or
2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or
4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or
5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a **persistent felony offender in the second degree** shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401.

(6) A person who is found to be a **persistent felony offender in the first degree** shall be sentenced to imprisonment as follows:
   (a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than fifty (50) years, or life imprisonment; or
   (b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years. A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.

* * * * * *

KRS 532.090 Sentence of imprisonment for misdemeanor

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

(1) For a Class A misdemeanor, the term shall not exceed twelve (12) months; and
(2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

KRS 532.200 Definitions for KRS 532.210 to 532.250

As used in KRS 532.210 to 532.250, unless the context otherwise requires:

(1) **"Home"** means the temporary or permanent residence of a defendant consisting of the actual living area. If more than one (1) residence or family is located on a single piece of property, "home" does not include the residence of any other person who is not part of the social unit formed by the defendant's immediate family. A hospital, nursing care facility, hospice, half-way house, group home, residential treatment facility, or boarding house may serve as a "home" under this section;

(2) **"Home incarceration"** means use of a person's home for purposes of confinement;

(3) **"Violent felony offense"** means an offense defined in KRS 507.020 (murder), 507.030 (manslaughter in the first degree), 508.010 (assault in the first degree), 508.020 (assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree), 513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020 (robbery in the first degree), 515.030 (robbery in the second degree), 520.020 (escape in the first degree), any criminal attempt to commit the offense (KRS 506.010), or conviction as a persistent felony offender (KRS 532.080) when the offender has a felony conviction for any of the above-listed offenses within the five (5) year period preceding the date of the latest conviction;

(4) **"Terminal illness"** means a medically recognized disease for which the prognosis is death within six (6) months to a reasonable degree of medical certainty; and

(5) **"Approved monitoring device"** means an electronic device or apparatus which is limited in capability to recording or transmitting information as to the prisoner's presence or non-presence in the home. The devices shall be minimally intrusive. No monitoring device capable of recording or transmitting:
   (a) Visual images other than the defendant's face;
   (b) Oral or wire communications or any auditory sound other than the defendant's voice; or
   (c) Information as to the prisoner's activities while inside the home;

   shall be approved.

KRS 532.220 Conditions

The conditions of home incarceration shall include the following:

(1) The home incarceree shall be confined to his home at all times except when:
   (a) Working at approved employment or traveling directly to and from such employment;
   (b) Seeking employment;
   (c) Undergoing available medical, psychiatric, or mental health treatment or approved counseling and after care programs;
   (d) Attending an approved educational institution or program;
   (e) Attending a regularly scheduled religious service at a place of worship; and
   (f) Participating in an approved community work service program;

(2) Violation of subsection (1) of this section may subject the home incarceree to prosecution under KRS 520.030 (escape);

(3) The home incarceree shall conform to a schedule prepared by a designated officer of the supervising authority specifically setting forth the times when he may be absent from the home and the locations where he may be during those times;

(4) The home incarceree shall not commit another offense during the period of time for which he is subject to the conditions of home incarceration;

(5) The home incarceree shall not change the place of home incarceration or the schedule without prior approval of the supervising authority;
(6) The home incarceree shall maintain a telephone or other approved monitoring device in the home or on his person at all times;
(7) Any other reasonable conditions set by the court or the supervising authority including:
    (a) Restitution under KRS 533.030;
    (b) Supervision fees under KRS 439.315; and
    (c) Any of the conditions imposed on persons on probation or conditional discharge under KRS 533.030(2); and

* * * * * *

KRS 532.356 Reimbursement and restitution as additional sanctions – Ineligibility to operate motor vehicle upon conviction of theft of fuels

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:
    (a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and
    (b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.
(2) In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of KRS 514.030 involving the theft of gasoline or special fuels from a retail establishment and the defendant has been previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a retail establishment. A retail establishment may post a sign at the location where the fuel is dispensed apprising the public of the sanctions available under this subsection.

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PROBATION AND CONDITIONAL DISCHARGE

(Selected Sections)

KRS 533.050 Arrest of defendant on probation or conditional discharge – Notice and hearing

(1) At any time before the discharge of the defendant or the termination of the sentence of probation or conditional discharge:

* * * * * *

(b) A probation officer, or peace officer acting at the direction of a probation officer, who sees the defendant violate the terms of his probation or conditional discharge may arrest the defendant without a warrant.

* * * * * *

KRS 533.060 Probation or conditional release – Effect of use of firearm – Other felonies

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of the offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, the person shall not be eligible for probation, shock probation, or conditional discharge, except when the person establishes that the person against whom the weapon was used had previously or was then engaged in an act or acts of domestic violence and abuse as defined in KRS 403.720 against either the person convicted or a family member as defined in KRS 403.720 of the person convicted. . . . .

* * * * * *

KRS 533.065 Effect of person wearing body armor and carrying deadly weapon at time of offense

Any person who was found guilty of a felony offense under KRS Chapters 218A *[Controlled Substances]*, 507 *[Criminal Homicide]*, 508 *[Assault and Related Offenses]*, 509 *[Kidnapping and Related Offenses]*, 511 *[Burglary and Related Offenses]*, or 513 *[Arson and Related Offenses]*, or KRS 237.040 *[Criminal possession of destructive device or booby trap device]*, 514.100 *[[Unauthorized use of vehicle]*, 525.020 *[Riot in the first degree]*, 525.030 *[Riot in the second degree]*, 527.040 *[Possession of firearm by convicted felon]*, 527.070 *[Unlawful possession of a weapon on school property]*, 527.100 *[Possession of a handgun by a Minor]*, or theft of a motor vehicle under KRS 514.030 *[Theft by unlawful taking or disposition]*, and who was wearing body armor and was armed with a deadly weapon at the time of the offense shall not be granted probation, shock probation, parole, conditional discharge, or any other form of early release.

KRS CHAPTER 534

FINES

(Selected Sections)

KRS 534.030 Fines for felonies

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony shall, in addition to any other punishment imposed upon him, be sentenced to pay a fine in an amount not less than one thousand dollars ($1,000) and not greater than ten thousand dollars ($10,000) or double his gain from commission of the offense, whichever is the greater.

* * * * *

(3) When a defendant is convicted of two (2) or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of the fines shall not exceed ten thousand dollars ($10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

* * * * *

KRS 534.040 Fines for misdemeanors and violations

* * * * *

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed:
   (a) For a Class A misdemeanor, five hundred dollars ($500); or
   (b) For a Class B misdemeanor, two hundred fifty dollars ($250); or
   (c) For a violation, two hundred fifty dollars ($250).

* * * * *

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