



KENTUCKY TRANSPORTATION CENTER

**DISTRACTED DRIVING
PRELIMINARY ANALYSIS AND SURVEY**





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We provide services to the transportation community
through research, technology transfer and education.

We create and participate in partnerships
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Teamwork

Listening and communicating along with
courtesy and respect for others.

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Delivering the highest quality
products and services.

Continuous Improvement

In all that we do.

**Research Report
KTC-10-06/SPR56-10-1F**

DISTRACTED DRIVING – Preliminary Analysis and Survey

by

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in cooperation with

Kentucky Transportation Cabinet
Commonwealth of Kentucky

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16. Abstract This report primarily focuses on an attempt to document the level of driver distraction existing in Kentucky through an analysis of crash data and by conducting an observational survey of drivers. Additional research is cited as a means of comparing other studies with results from Kentucky, as well as establishing a definition of distracted driving. The status of laws related to use of cell phones in other states was summarized, and the recently passed legislation in Kentucky was noted by incorporation of the full text as an appendix. It was determined from analysis of Kentucky data that if the three categories of human factors (inattention, distraction, and cell phone) listed on the traffic collision report are combined; the total would be 53,223 collisions and 184 fatal collisions. These numbers represent 43.1 percent of the total collisions and 24.5 percent of the fatal collisions in 2008. Detailed analyses were performed to determine where driver distraction was listed as a contributing factor. Included were five years of data from 2004 through 2008, involving 4,143 fatal crashes. Combining the percentages for cell phones (0.8 percent) with those for driver distraction (1.1 percent) and driver inattention (1.2 percent- where there was evidence of a distraction) results in the finding that 3.1 percent of fatal collisions can be directly related to a driver distraction. Results from the observational survey show the following weighted averages of percentages of distraction categories: 7.3% - cell phone use; 0.2% - hands free cell use; 0.9% - keying; 1.6% - other distraction. These results were similar to those obtained by an observational study by NHTSA in 2008.			
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EXECUTIVE SUMMARY

Distracted driving is a safety issue because it has the potential of diverting a driver's attention away from the primary tasks of navigating a vehicle and responding to critical events. Generally, driver distraction can be categorized as visual, cognitive, or manual. The degree of the problem is associated with the level of attention required to accomplish one of the chosen tasks other than driving, and the frequency with which a driver chooses to multitask. This report primarily focuses on an attempt to document the level of driver distraction existing in Kentucky through an analysis of crash data and by conducting an observational survey of drivers. Additional research is cited as a means of comparing other studies with results from Kentucky, as well as establishing a definition of distracted driving. The status of laws related to use of cell phones in other states was summarized, and the recently passed legislation in Kentucky was noted by incorporation of the full text as an appendix.

It was determined from analysis of Kentucky data that if the three categories of human factors (inattention, distraction, and cell phone) listed on the traffic collision report are combined; the total would be 53,223 collisions and 184 fatal collisions. These numbers represent 43.1 percent of the total collisions and 24.5 percent of the fatal collisions in 2008. It should be noted that the subjectivity of investigating officers who prepare reports for collisions, as well as the level of training and ability to correctly code contributing factors can influence the frequency of a factor being listed. In any case, the magnitude of the problem with distracted, inattentive, or drowsy drivers is significant and should be addressed. The National Highway Traffic Safety Administration has reported that inattention is a causative factor in 25 to 30 percent of crashes. Detailed analyses were performed to determine where driver distraction was listed as a contributing factor. Included were five years of data from 2004 through 2008, involving 4,143 fatal crashes. Combining the percentages for cell phones (0.8 percent) with those for driver distraction (1.1 percent) and driver inattention (1.2 percent- where there was evidence of a distraction) results in the finding that 3.1 percent of fatal collisions can be directly related to a driver distraction. There would likely be other crashes where a distraction occurred which was not admitted by the driver or was not evident to the investigating officer.

Results from the observational survey show the following weighted averages of percentages of distraction categories:

- 7.3% - cell phone use
- 0.2% - hands free cell use
- 0.9% - keying
- 1.6% - other distraction

These results are similar to those obtained from the National Occupant Use Survey (NOPUS) conducted by the NHTSA in 2008 indicating percentages of drivers visibly manipulating hand-held devices was 1.0 percent and hand-held cell phone use was 6.0 percent.

1.0 Introduction and Background

The issue of distracted driving has reached a level of significant concern as it relates to the potential impact on highway safety. The use of cellular telephones has become a central theme of debate regarding the ability of drivers to maintain control of a vehicle while performing another task. There are many other forms of distraction that could interfere with the driving task, both internal and external to the vehicle. The effects of distraction have been evaluated or measured in several types of studies, including:

- Observational,
- Crash-based, and
- Experimental driving performance.

A summary of numerous reports is provided in a 2008 NHTSA report titled “Driver Distraction: A Review of the Current State-of Knowledge” (1). The following data and statistics are excerpts from that report detailing available information on distracted driving.

1. Observational studies have shown that drivers spend approximately 15 percent of their time engaged in conversation with passengers and approximately 15 percent of their time engaged in other activities constituting various levels of distraction.
2. From one observational study, the most frequently observed other activities obtained from video-recorded drivers were the following:
 - Eating or spilling food
 - Reaching for something, leaning or other internal distractions
 - Cell phone use
 - Manipulating audio controls
 - Smoking

From another observational study, the most frequently observed secondary activities included the following:

- Grooming
- Cell phone use
- Eating or drinking

It was also found in the second study that younger drivers (mean age 25) were twice as likely to be involved in secondary activities as older drivers (mean age 64).

3. Crash analyses have revealed that the incidence of distraction as a contributing factor typically is underreported. Unless there is direct linkage to some form of distraction, investigating officers do not typically report distraction as a factor. In addition, drivers are reluctant to report their engagement in a secondary task that directed their attention away from driving.

4. In two studies of data from the Crashworthiness Data System for the years 1995-2003, it was found that approximately 10.5 percent of the drivers involved in crashes serious enough to require at least one vehicle to be towed from the scene were distracted. For the 1995-1999 crash data, it was found that approximately 70 percent of the reported distractions were inside the vehicle (passengers and audio devices reported as being the most frequent), with the remaining 30 percent from an outside source. For the 2000-2003 crash data, the specific sources of distraction were an outside object/person/event for 23.7 percent; with the following inside-the-vehicle sources most frequently noted.
 - Another vehicle occupant – 20.8%
 - Using or reaching for an object – 5.2%
 - A moving object inside the vehicle – 3.7%
 - Cell phone – 3.6%
 - Adjusting radio/cassette/CD – 2.9%
 - Eating or drinking – 2.8%
 - Adjusting climate control – 1.5%
 - Smoking – 1.0%
5. Experimental studies conducted in controlled settings have demonstrated that various tasks cannot be performed while driving without causing interference. A finding of one study was that the effects of cognitive distraction differ considerably from those of visual distraction on driving performance. It was also found that as cognitive demands increased, drivers increased their concentration on the road center and decreased their recognition of the periphery.
6. Naturalistic observational studies have been conducted which allow the opportunity to observe the actions of drivers immediately prior to a crash. A study by Virginia Tech Transportation Institute in 2006 for NHTSA involved 100 equipped cars in and around northern Virginia/Washington, D.C. Data were recorded for a 12-13 month period, with two million vehicle miles traveled. Drivers were selected to include a disproportionate percentage of younger drivers (age 18-25) and high annual mileage to maximize the potential for recording crashes or near-crashes. Data were obtained for 69 crashes and 761 near-crashes, with distraction from a secondary task reported in 33 percent of the crashes and 27 percent of the near-crashes.

1.1 Cellular Telephones

The use of electronic communication devices has increased dramatically in recent years. Data presented at a U.S. House of Representatives hearing in October 2009 on “Addressing the Problem of Distracted Driving” included the following information detailing the level of usage (2).

- Statistics detailing cell phone usage indicate there were 276 million subscribers in the United States as of June 2009, an increase of 42 percent from 195 million in 2005.

- Over 600 billion text messages were sent in 2008, nearly four times the number in 2006.
- Over 110 billion text messages were sent in the United States in the month of December 2008, a tenfold increase in three years.

Considerable research has been devoted to the understanding of the effects of cellular telephones on driver behavior and safety. McCartt's study in 2006 involving review of literature related to cellular telephones found through simulator tests that the driving task is compromised by other tasks replicating the demands of telephone conversation. Decreased reaction time was the most consistent finding, with that being more pronounced for older drivers (age 50 to 80). Evidence was presented that telephone conversations were more disruptive than conversations with other passengers or manipulating a radio, CD, or cassette player. It was also found that the level of engagement and conversation complexity combine to influence the level of driver distraction. A Canadian study of cell phone records of crash-involved drivers showed that use of a cell phone up to 10 minutes before a crash increased the likelihood of being involved in crash by four times. Overall, McCartt, et al., concluded that cell phone use represents a significant hazard when driving; primarily because cell phone use is typically for longer durations than other shorter-duration distractions such as eating, drinking, or tuning a radio.

At present, cell phone use is a relatively small proportion of the overall incidence of distracted driving activities. However, as noted in the statistics cited above, there are trends in electronic communication device usage that clearly indicate a potential for increases in driver distraction associated with these devices. There are continuing increases in the number of cell phone users and these same or similar devices are being used for more than talking – specifically text messaging and downloading other information from the Internet. A compounding factor is that usage of the communication devices is most prevalent in the younger driver group, which generally represents those with the least experience and underdeveloped driving skills.

1.2 Definitions of Distracted Driving

One of the major obstacles with addressing distracted driving is the absence of a uniform or widely accepted definition. Issues of concern relative to a definition are the level of control the driver has over the distracting activity and whether the activity is internal or external to the vehicle. Following are various issues related to definitions or specific definitions and their sources:

1. *Distraction is attention given to a non-driving-related activity, typically to the detriment of driving performance.* - International Standards Organization, Pettitt, et al., 2005
2. *Distraction is a form of inattention in which a driver is delayed in the recognition of information needed to safely accomplish the driving task because some event,*

- activity, object, or person within or outside the vehicle compels or induces the driver's shifting attention away from the driving task.* – Stutts, et al., 2001
3. An issue of definition is whether driver distraction requires a source or an observable event, such as animal movement inside the vehicle or an activity in which the driver chooses to engage such as eating or inserting a CD. General agreement is that a triggering activity is a critical part of the definition. – Trezise, et al., 2006 and Pettitt, et al., 2005.
 4. Contrary opinions include mental workload or cognitive distraction can be a significant part of the overall problem of distracted driving.
 5. Another issue of debate is whether the driver has control over the triggering activity. Included in the category of uncontrolled events are such activities as movement of an animal or child within a vehicle. – Trezise, et al., 2006.
 6. The issue of internal versus external events as distractions is another important distinction. Some definitions of driver distraction include only unusual or unexpected events. Should the sudden movement of an animal outside the vehicle be considered a distraction? Another more frequently occurring event is the presence of dynamic signage as outside advertising. – Wallace, 2003.
 7. Categorizations have included external sources as driver distractions, and these events or activities have been approximated to represent 20 to 30 percent of the crashes caused by distraction. – Trezise, et al., 2006.
 8. The following definition seems to include many of the issues and was prepared by the Australian Road Safety Board in 2006.

Driver distraction is the voluntary diversion of attention from the primary driving tasks not related to impairment (alcohol, drugs, fatigue, or medical condition) where the diversion occurs because the driver is performing an additional task and temporarily focusing on an object, event, or person not related to the primary driving tasks. The diversion reduces a driver's situational awareness, decision making, and/or performance, resulting in some instances, in a collision or near-miss or corrective action by the driver and/or other road users.

1.3 NHTSA Electronic Device Use Survey – 2008

Results from the National Occupant Use Survey (NOPUS) conducted by the NHTSA in 2008 indicate that drivers visibly manipulating hand-held devices were 1.0 percent and the hand-held cell phone use was 6.0 percent (3). These results translate into 812,000 vehicles being driven by someone using a hand-held cell phone at any given daylight moment. Through interpretation of data from NHTSA's 2007 Motor Vehicle Occupant Safety Survey, it was estimated that of drivers using cell phones, 55 percent used hand-held devices and 45 percent used hands-free devices. Applying this proportion to the 6 percent of drivers estimated to be using hand-held cell phones from NOPUS shows 5 percent of drivers using hands-free cell phones. Therefore, further translation of these data results in 11 percent of drivers estimated to be using either a hand-held or hands-free cell phone while driving in a typical daylight moment (surveys only in daylight) in 2008.

1.4 Cell Phone Laws

Currently, a ban on hand-held devices is in place in the following six states, in addition to the District of Columbia and the Virgin Islands (4).

- California
- Connecticut
- New Jersey
- New York
- Oregon
- Washington

Special cell phone driving laws are in place for novice drivers in 21 states. A few states ban use in some situations, such as when operating a school bus or public transit vehicle. Several major cities also have bans on hand-held devices. Use of a headset while driving is less restricted by traffic laws, with no states or major cities presently banning such use. Text messaging is banned for drivers in the following 23 states, in addition to the District of Columbia and Guam (4).

Alaska	Nebraska
Arkansas	New Hampshire
California	New Jersey
Colorado	New York
Connecticut	North Carolina
Illinois	Oregon
Iowa	Rhode Island
Kentucky	Utah
Louisiana	Virginia
Maryland	Washington
Minnesota	Wyoming
Nebraska	

A law was passed and enacted during the 2010 session of the Kentucky Legislature to ban texting (5). Generally, the law bans writing, sending, or reading text-based information using a personal communication device. Exceptions were made for GPS systems that are a feature of a personal communication device, input of information necessary for making a telephone call, and the use of communication devices by emergency personnel. In addition, any use of a personal communication device was banned for drivers under the age of 18, except to summon the help during an emergency. A copy of the Kentucky legislation is included as Appendix A.

2.0 KENTUCKY CRASH DATA ANALYSIS

A variety of factors and conditions can contribute to a collision. Police officers investigating a crash may assign up to three human factors for each driver, two vehicular factors for each vehicle, and two environmental factors for each collision. In a recent

compilation of Kentucky crash data as contained in “*Traffic Collision Facts – 2008*”, the following statistics were presented for distraction-related contributing factors (6):

<u>Human Factor</u>	<u>All Collisions</u>	<u>Fatal Collisions</u>
Inattention	47,442	152
Distraction	4,819	25
Cell Phone	962	7

It can be seen from these data that if all three categories of human factors listed above are combined, the total would be 53,223 collisions and 184 fatal collisions. These numbers represent 43.1 percent of the total collisions and 24.5 percent of the fatal collisions in 2008. However, the subjectivity of investigating officers who prepare reports for collisions, as well as the level of training and ability to correctly code contributing factors can influence the frequency of a factor being listed. In any case, the magnitude of the problem with distracted, inattentive, or drowsy drivers is significant and should be addressed. NHTSA has reported that inattention as a causative factor in 25 to 30 percent of crashes. In more detailed study of crashes (NHTSA’s Crashworthiness Data System) involving at least one vehicle being towed from the scene, the percentage of crashes with one or more drivers identified as inattentive (either distracted or fatigued or looking but not seeing) was 25.5 percent. When analyzing driver attention status, it should be noted that nearly all sources of information on this subject indicate that actual numbers are likely higher because of underreporting and tendencies of drivers to avoid implicating themselves by admitting inattention.

Analysis of Kentucky crash data was performed to determine causes and trends in collisions reported to be related to driver distraction. Detailed analyses were performed to determine where driver distraction was listed as a contributing factor. Included were five years of data from 2004 through 2008, involving 4,143 fatal crashes. A review of fatal crashes was conducted because the investigation and documentation is the most thorough for this type of crash. Of those crashes there were 30 coded with cell phone as a contributing factor. Two other crashes where distraction was listed with cell phone noted were found. This results in 32 fatal crashes with cell phone as a factor, which represents 0.8 percent of all fatal crashes in the five years.

There were 101 crashes in those five years which listed driver distraction as a contributing factor. This is 2.4 percent of all crashes. However, when the reports were reviewed (eliminating a few duplicates where cell phone was also listed), a specific distraction was listed in only 47 crashes. This represents 1.1 percent of all crashes in the five years. In the other crashes, it was noted that a driver lost control with no indication of any specific distraction. Following are the distractions which were listed most often:

Interaction with passenger	7
Trying to retrieve an item which was dropped	7
Dog	6
Eating	5
Motorcyclist adjusting clothing	5
Children	4

Driver inattention was listed in 152 fatal crashes in 2008, which is about 20 percent of all crashes. It was not feasible to review the crash reports listing driver inattention as a contributing factor for five years but all the reports noting this as a factor in 2008 were reviewed. In a majority of crashes there was no direct linkage of the crash to driver distraction. After eliminating crashes in which both driver distraction and driver inattention were listed (these would have been included in the 101 “driver distraction” crashes previously discussed), nine crashes were found in which there would be a basis for noting driver distraction. Five of these involved a driver attempting to retrieve an item from within their vehicle. This was 1.2 percent of all fatal crashes in 2008.

Combining the percentages for cell phones (0.8 percent) with those for driver distraction (1.1 percent) and driver inattention (1.2 percent- where there was evidence of a distraction) results in the finding that 3.1 percent of fatal collisions can be directly related to a driver distraction. Again, there would likely be other crashes where a distraction occurred which was not admitted by the driver or was not evident to the investigating officer. Therefore, the percentage in which driver distraction may be involved would be higher if the assumption is made that all crashes in which driver inattention or driver distraction was listed actually involved a specific distraction.

3.0 OBSERVATIONAL SURVEY

Observational surveys were conducted to determine the frequency of usage of electronic communication devices by drivers. Survey procedures followed and categories of electronic devices included were similar to those used as part of the National Occupant Protection Use Survey, which is conducted annually by NHTSA. Experience gained as part of statewide seatbelt surveys was relied upon to insure statistically valid data collection and weighting of data based on vehicle miles of travel for the specific functional class of roadway. The sampling plan included 21 sites throughout Kentucky that represent 3 geographic regions and 7 roadway functional classification groups.

The observational survey of distracted driving was conducted during November and December 2009. The survey included the following types of distraction categories of device usage:

- Cell phone use
- Hands free cell use
- Keying (texting or dialing)
- Other distraction (eating, drinking, grooming, retrieving something, etc.)

A total of 17,812 observations were obtained at the 21 survey sites and the results are shown in Table 1 below. It can be seen that the range of cell phone usage was a high of 11.7 percent in Versailles (Woodford County) to 1.5 percent in Drift (Floyd County). As noted, the weighting of data by vehicle miles traveled within roadway classes allowed proportionate representation of observations at the 21 survey sites. Results from the

observational survey show the following weighted averages of percentages of distraction categories:

- 7.3% - cell phone use
- 0.2% - hands free cell use
- 0.9% - keying
- 1.6% - other distraction

These results are similar to those obtained from the National Occupant Use Survey (NOPUS) conducted by the NHTSA in 2008 indicating percentages of drivers visibly manipulating hand-held devices was 1.0 percent and hand-held cell phone use was 6.0 percent (3).

An overall percentage of driver distraction from the Kentucky survey showed a total of 9.9 percent (combined use of an electronic devices was 8.3 percent, and the “other distraction” category was 1.6 percent).

TABLE 1. RESULTS FROM DISTRACTED DRIVING SURVEY

Site	County	VMT%	Intersection Description	% CELL PHONE	% HANDS FREE	% KEYING	% ELECTRONIC DEVICE TOTAL	% OTHER DISTRACTION	% DISTRACTED TOTAL
5	Barren	3.46	I-65 at Exit 53	8.2	0.3	0.3	8.7	1.8	10.5
11	Meade	6.00	US 31W at KY 1638	5.9	0.4	1.0	7.3	2.1	9.4
27	Grayson	6.95	KY 259 at US 62	8.1	0.0	0.2	8.3	0.3	8.6
37	Logan	3.07	US 68 at US 79	7.9	0.1	1.2	9.3	1.4	10.6
44	Hopkins	2.13	Pennyrile Parkway Exit 44	6.8	0.0	0.3	7.1	1.4	8.5
54	Henderson	3.52	Us 41A at 5th St.	6.2	0.2	0.6	7.0	2.8	9.7
63	Calloway	3.35	KY 1637 at 16th	8.2	0.3	0.5	9.0	0.8	9.8
76	Shelby	8.31	I-64 at Exit 28	8.6	0.0	1.1	9.8	1.5	11.3
80	Woodford	1.92	US 60 at US 62	11.7	0.2	2.5	14.4	1.1	15.5
88	Oldham	4.01	KY 146 at KY 1817	7.5	0.1	0.5	8.2	1.8	9.9
98	Franklin	1.41	KY 2820 at US 127	5.7	0.4	1.1	7.1	3.6	10.7
110	Kenton	17.65	I-75 at Exit 186	7.0	0.4	1.2	8.6	1.2	9.8
121	Jefferson	8.71	US 31W at KY 841	8.1	0.0	1.4	9.5	1.4	10.9
144	Boone	7.65	US 42 at US 25	6.0	0.0	0.3	6.3	1.0	7.3
154	Boyd	2.48	I-64 at Exit 185	8.2	0.8	1.3	10.2	2.3	12.5
166	Lincoln	6.56	US 27 at US 150	7.7	0.4	0.5	8.5	3.7	12.2
174	Carter	5.94	US 60 at KY 7	7.2	0.0	1.6	8.7	1.9	10.6
180	Floyd	3.13	KY 680 at KY 122	1.5	0.0	0.2	1.7	1.4	3.1
188	Rowan	0.41	I-64 at Exit 137	7.1	0.2	0.0	7.3	2.5	9.8
194	Laurel	1.89	US 25E at US 25	7.6	0.0	0.3	7.9	1.5	9.4
200	Pulaski	1.45	KY 80 at KY 2296	7.3	0.1	0.5	7.9	0.8	8.6
Weighted Average				7.26	0.18	0.87	8.32	1.59	9.90

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4.0 REFERENCES

1. Ranney, T.A., “Driver Distraction: A Review of the Current State-of Knowledge”, Transportation Research Center, Inc.; NHTSA, 2008.
2. U.S. House of Representatives Public Hearing, “Addressing the Problem of Distracted Driving”, Washington, D.C., October 2009.
3. “Driver Electronic Device Use in 2008”, Traffic Safety Facts, DOT HS811 184, National Highway Traffic Safety Administration, September 2009.
4. Website; www.distraction.gov/state-laws/; May 2010.
5. Website; <http://www.lrc.ky.gov/record/10RS/HB415.htm>; May 2010.
6. *Traffic Collision Facts – 2008 Report*; Kentucky Transportation Center, University of Kentucky, September 2009.

APPENDIX A

Kentucky Legislation (HB 415) to Ban Texting and Other Uses of Cell Phones by Young Drivers

AN ACT relating to public safety.

WHEREAS, the certification of personal services agencies is critical to the safety and well-being of the clients and the professionalism of personal service agency employees; and

WHEREAS, Senate Bill 22 was passed by the 2009 Regular Session of the General Assembly to require certification of personal services agencies; and

WHEREAS, the safety of disabled veterans and others in the disabled community is enhanced when personal service agencies have a policy addressing the acceptance of personal gifts, gratuities, or loans from the clients they serve;

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

➔Section 1. KRS 216.712 is amended to read as follows:

(1) No personal services agency shall be operated, maintained, or advertised without obtaining a certificate as provided in this section. Entities that operate personal services agencies, as defined in KRS 216.710, in Kentucky on June 25, 2009, shall have until December 31, 2009, to file an application for certification pursuant to this section. All other agencies shall be required to obtain certification prior to providing personal services. A parent personal services agency with one (1) or more branch offices in Kentucky shall not be required to obtain separate certificates for each of its branch offices.

(2) Each personal services agency providing direct services to clients as defined in KRS 216.710 shall perform a criminal background check on any applicant for employment prior to employing the applicant. Each application provided by the personal services agency to the applicant for initial employment shall state in a conspicuous manner on the application "For This Type of Employment State Law Requires a Criminal Background Check as Condition of Employment."

(3) No personal services agency shall employ a person in a position which involves providing direct services to a client if the employee has been convicted of a crime as defined by KRS 216.710.

(4) The secretary shall promulgate administrative regulations to implement this section and KRS 216.714 and 216.716. The administrative regulations at a minimum shall establish:

(a) An initial and annual certification review process for personal services agencies that does not require an on-site visit;

(b) Procedures related to applying for, reviewing, approving, denying, and revoking certification;

(c) Fees for application and reapplication in an amount sufficient to offset the cost to administer KRS 216.712 and 216.714;

(d) Procedures for complaint investigations;

(e) Procedures for the imposition and collection of fines as provided by KRS 216.714;

(f) Policies and procedures for the personal services agencies;

(g) Procedures for criminal background checks;

(h) Procedures to ensure the competency of the individuals providing personal services, the requirements of written service agreements between the personal services agencies and clients or designated representatives, and the requirements of personal service plans for the clients; and

(i) **Procedures to be utilized in the conduct of hearings upon appeals in accordance with KRS Chapter 13B.**

(5) *Only those personal services agencies meeting the standards prescribed for certification shall be granted a certificate.*

(6) *All fees collected under the provisions of this section shall be paid into the State Treasury and credited to the Kentucky personal services agency fund created by KRS 216.716.*

(7) Each personal services agency providing direct care to clients shall have a policy that addresses the acceptance of personal gifts, gratuities, or loans from a client by the agency and by any employee, agent, or contractor of the personal services agency. The policy shall not be required to apply to personal gifts, gratuities, or loans to the agency made by family members or friends of the client. The policy shall, at a minimum:

(a) Prohibit the solicitation of personal gifts, gratuities, or loans from a client; and

(b) Specify the conditions under which gifts, gratuities, or loans from a client may be accepted by the agency and by any employee, agent, or contractor of the personal services agency.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "personal communication device" means a device capable of two (2) way audio or text communication that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers communication to the possessor, including but not limited to a paging device and a cellular telephone.

(2) Except as provided in subsection (3) of this section, no person shall, while operating a motor vehicle that is in motion on the traveled portion of a roadway, write, send, or read text-based communication using a personal communication device to manually communicate with any person using text-based communication, including but not limited to communications referred to as a text message, instant message, or electronic mail.

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

(a) The use of a global positioning system feature of a personal communication device;

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

(c) An operator of an emergency or public safety vehicle, when the use of a personal communication device is an essential function of the operator's official duties; or

(d) The operator of a motor vehicle who writes a text message on a personal

communication device to:

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

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "personal communication device" shall have the same meaning as defined in Section 2 of this Act.

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

(3) Use of a personal communication device does not include a stand-alone global positioning system or an in-vehicle security, diagnostics, and communications system, but does include manually entering information into the global positioning system feature of a personal communication device.

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

➔Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (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, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, 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. Any person who violates subsection (1)(a) 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, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. 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) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) **Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.**
- (c) **Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).**
- (d) **Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.**
- (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).**
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) *Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.*

(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 189.510 or 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.*

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

(13) *Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each*

offense.

(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.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(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 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.

(25) Any person who violates the provisions of KRS 189.125(3)(b) 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 24A.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 has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the 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) of 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.

(30) (a) Prior to January 1, 2011, any person who violates Section 2 or 3 of this Act shall not be issued a uniform citation, but shall instead receive a courtesy warning.

(b) On or after January 1, 2011, any person who violates Section 2 or 3 of this Act shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

➔Section 5. KRS 186.452 is amended to read as follows:

(1) Except as provided in KRS 186.415, a person who is under eighteen (18) 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 KRS 186.450(4), (5), or (6), a conviction for a violation of Section 2 or 3 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 Department of Kentucky 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 Department of Kentucky 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 nonpublic secondary school, a person with an intermediate license 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.

(6) A violation under subsection (3), (4), or (5) 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 operator's license.

➔Section 6. KRS 186.454 is amended to read as follows:

(1) Except as provided in KRS 186.415, 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:

(a) 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 Section 2 or 3 of this Act, a conviction for a violation of KRS 189A.010(1), or a conviction under KRS 186.452(3), (4), or (5); and

(b) Completed a driver training program under KRS 186.410(4).

(2) A person with an intermediate license who is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle if the person has completed a driver training program under KRS 186.410(4).

➔Section 7. Section 1 of this Act shall be known and may be cited as, "The Kentucky Adult Protection Act" in honor of the disabled veterans who revealed the need for this legislation.

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