

KRS §189A.010

| Alcohol | Blood | Breath |
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| Presumed Not Under the Influence | <0.04 §(3)(a) | <0.04 §(3)(a) |
| No Presumption Either Way | >.04 but <.08 §(3)(b) | >.04 but <.08 §(3)(b) |
| Non-Aggravated | ≥0.08 but <0.15 §(1)(a), (1), ≥.02, if under age of 21 §(1)(f) | ≥0.08 but <0.15 §(1)(a), (1), ≥.02, if under age of 21 §(1)(f) |
| Aggravated | ≥0.15, (1) | ≥0.15, (1) |
| Drugs | Blood - Presence of controlled substance §(1)(d), (1) | |
| | Any Sch. I, other than marijuana | |
| | Alprazolam, | |
| | Amphetamine, | |
| | Buprenorphine, | |
| | Butalbital, | |
| | Carisoprodol, | |
| | Cocaine, | |
| | Diazepam, | |
| | Hydrocodone, | |
| | Meprobamate, | |
| | Methadone, | |
| | Methamphetamine, | |
| | Oxycodone, | |
| | Promethazine, | |
| | Propoxyphene, | |
| | Zolpidem. | |
| Under the Influence | Under the influence of alcohol §(1)(b), any other substance or combination of substances which impair one's driving ability §(1)(c), the combined influence of alcohol and any other substance which impairs one's driving ability §(1)(e) | |

(1) As measured by a scientifically reliable test, or tests, taken within two hours of cessation of operation or physical control of a motor vehicle. However, if the sample of the breath or blood was obtained more than two hours after operation or physical control, the results may be admissible for prosecution of §(1)(b) or (1)(e). If sample of blood is taken more than two hours, the results may be admissible for prosecution of §(1)(c) or (e).

| Penalties (excluding license suspension) (5) | Prior to 7/1/20 | 7/1/20 and later |
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| First Offense in 10 Years KRS §189A.010(5)(a) | First Offense in 10 Years KRS §189A.010(5)(a) | First Offense in 10 Years KRS §189A.010(5)(a) |
| \$200 - \$500 fine | \$200 - \$500 fine | \$200 - \$500 fine |
| 48 hours - 30 days in county jail | 48 hours - 30 days in county jail | 48 hours - 30 days in county jail |
| Community labor may be substituted for jail, fine, or both | Community labor may be substituted for jail, fine, or both | Community labor may be substituted for jail, fine, or both |
| If aggravated: minimum of 4 days imprisonment (6) | If aggravated: minimum of 4 days imprisonment (6a) | If aggravated: minimum of 4 days imprisonment (6a) |
| ADE up to 90-days (2) | ADE up to 90-days (2) | ADE up to 90-days (2) |
| Second Offense in 10 Years KRS §189A.010(5)(b), (3) | Second Offense in 10 Years KRS §189A.010(5)(b), (3) | Second Offense in 10 Years KRS §189A.010(5)(b), (3) |
| \$350 - \$500 | \$350 - \$500 | \$350 - \$500 |
| 7-days to 6-months in county jail | 7-days to 6-months in county jail | 7-days to 6-months in county jail |
| In addition to fine and imprisonment may be sentenced to community labor for not less than 10-days nor more than 6-months | In addition to fine and imprisonment may be sentenced to community labor for not less than 10-days nor more than 6-months | In addition to fine and imprisonment may be sentenced to community labor for not less than 10-days nor more than 6-months |
| If aggravated: minimum of 14-days imprisonment | If aggravated: minimum of 14-days imprisonment | If aggravated: minimum of 14-days imprisonment |
| ADE up to 1-year (2) | ADE up to 1-year (2) | ADE up to 1-year (2) |
| Third Offense in 10 Years KRS §189A.010(5)(c), (3) | Third Offense in 10 Years KRS §189A.010(5)(c), (3) | Third Offense in 10 Years KRS §189A.010(5)(c), (3) |
| \$500 - \$1,000 fine | \$500 - \$1,000 fine | \$500 - \$1,000 fine |
| 30-days - 12-months in county jail | 30-days - 12-months in county jail | 30-days - 12-months in county jail |
| In addition to fine and imprisonment may be sentenced to community labor for not less than 10-days nor more than 12-months | In addition to fine and imprisonment may be sentenced to community labor for not less than 30-days nor more than 12-months | In addition to fine and imprisonment may be sentenced to community labor for not less than 30-days nor more than 12-months |
| If aggravated: minimum of 60-days imprisonment | If aggravated: minimum of 60-days imprisonment | If aggravated: minimum of 60-days imprisonment |
| ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) | ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) | ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) |
| Fourth and subsequent offense within 10-years KRS §189A.010(5)(d), (3) | Fourth and subsequent offense within 10-years KRS §189A.010(5)(d), (3) | Fourth and subsequent offense within 10-years KRS §189A.010(5)(d), (3) |
| Class D felony - mandatory 120 days | Class D felony - mandatory 120 days | Class D felony - mandatory 120 days |
| If aggravated mandatory minimum term of imprisonment shall be 240-days | If aggravated mandatory minimum term of imprisonment shall be 240-days | If aggravated mandatory minimum term of imprisonment shall be 240-days |
| ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) | ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) | ADE for 1-year, may not terminate participation in at least outpatient program prior to end of 1-year (2) |
| Under 21 - KRS §189A.010(6), (4) | Under 21 - KRS §189A.010(6), (4) | Under 21 - KRS §189A.010(6), (4) |
| Fine of \$100 - \$500 | Fine of \$100 - \$500 | Fine of \$100 - \$500 |
| or 20 hours of community service in lieu of fine | or 20 hours of community service in lieu of fine | or 20 hours of community service in lieu of fine |
| If alcohol concentration of .08 or greater - proceed as regular DUI KRS §189A.010(7) | If alcohol concentration of .08 or greater - proceed as regular DUI KRS §189A.010(7) | If alcohol concentration of .08 or greater - proceed as regular DUI KRS §189A.010(7) |

- (2) Defendant may enroll in ADE program prior to conviction, eff. 7/1/20 KRS §189A.045(1)(b)
- (3) Court shall receive copy of conviction by COURT ordering the conviction as proof (not DOT record) KRS §189A.010(5)(e)
- (4) An underage DUI does not enhance a future DUI to a 2nd offense or greater. KRS 189A.010(5)
- (5) Non-violent offenses (including DUI 4th) are eligible for home incarceration in lieu of jail time. KRS §532.210(1), *Rice v. Commonwealth*, 492 S.W.3d 563 (Ky. Sup. Ct. 2016)
- (6) *Commonwealth v. Gaitherwright*, 70 S.W. 3d 411 (Ky. Sup. Ct. 2002)
- (6a) refusing to submit to test if not a first offender KRS §189A.010(11)(e)

| License Suspension | Prior to 7/1/20 - KRS §189A.070 | 7/1/20 and later - KRS §189A.070 |
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| First Offense | 30 -120 days §(1)(a) | 6 months. Is reduced to 4 months if the person has an IID for 90 consecutive days with no IID violations. In no case, more than 6 months. §(1)(a)(2)(a)(i), (ii), and (iii) |
| Second Offense | 12-18 months §(1)(b) | 18 months. Is reduced to 12 months if the person has an IID for 120 consecutive days with no violations. In no case, more than 18 months. §(1)(a)(2)(b)(i), (ii), and (iii) |
| Third Offense | 24-36 months §(1)(c) | 36 months. If person issued an IID and has 120 consecutive days of no IID violations, reduced to 18 months. §(1)(a)(2)(c)(i), (ii), and (iii). In no case, more than 36 months. |
| Fourth Offense | 60 months §(1)(d) | 60 months. Is reduced to 30 months if IID installed and no violations for 120 consecutive days. §(1)(a)(2)(d)(i), (ii), and (iii) |
| Under 21 | 30-days to 6-months KRS §189A.010(6) | 6 month suspension unless the person has an IID for 90 consecutive days with no violations, then suspension is reduced to 4 months. §189A.070(1)(a)(3)(a) |
| Under 18 | License revoked until age 18 or for length of suspension for underlying DUI, whichever is longer. KRS §189A.070(4) | License revoked until age 18 or for length of suspension for underlying DUI, whichever is longer. §(1)(b) |

| IID Requirement - KRS §189A.340 | | IID Requirement - KRS §189A.340 | |
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| 1st offense aggravated: 6-months | | IID not required on any offense - but having it with no violation will reduce suspension period. Otherwise, there is no range of suspension. It's simply a 6, 18, 36, or 60 month suspension for a first, second, third, fourth or subsequent DUI respectively. There is no hardship available for a alcohol related DUI. | |
| 2nd offense: 12 months (3) | | | |
| 3rd or subsequent offense: 30 months (3) | | | |
| Hardship license available on 1st offense, non-aggravated after 30 days | | Hardship license available on drug or 'impairing substance' DUI, not on alcohol involved DUI. KRS 189A.410(1)(a)-(b) | |
| Court has exclusive jurisdiction over suspensions | | Transportation Cabinet suspends licenses, not court. KRS 189A.070(1)(a)(1) | |

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| Reinstatement | To reinstate license, must serve length of suspension and complete ADE. KRS §189A.070(2) | To reinstate license, must serve length of suspension and complete ADE. KRS §189A.070(2) |
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(3) A person may have a 2nd, 3rd, 4th and subsequent DUI suspension reduced on a day-to-day basis for each day an IID was installed. If no IID violations, court may terminate suspension after 12-months of IID use. KRS 189A.070(7)

| Plate Impoundment | Prior to 7/1/20 - KRS §189A.085 | 7/1/20 and later - KRS §189A.085 |
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| | Applies to 2nd offender or greater. No impoundment if requirements for issuance of interlock license have been met under KRS §189A.420. | No impoundment of plates if person has been issued an ignition interlock or hardship license. Otherwise, includes 1st offender. |
| | Surrender occurs at final sentencing - applies to vehicles owned individually or jointly. Length of impoundment shall not exceed length of suspension. If jointly owned, may be transferred into to joint owner who was not the violator. Vehicle may be transferred during impoundment period. | Within 45-days of final sentencing, person shall physically surrender all license plates owned individually or jointly to the court. Length of impoundment shall not exceed length of suspension. If jointly owned, may be transferred into to joint owner who was not the violator. Vehicle may be transferred during impoundment period. |
| | Court, upon application, may grant exemption to family member or other individual where impoundment would pose undue hardship. | Court, upon application, may grant exemption to family member or other individual where impoundment would pose undue hardship. |
| Aggravating Circumstances KRS §189A.010(11)(a-f) | Prior to 7/1/20 - KRS §189A.085 | 7/1/20 and later - KRS §189A.085 |
| | in excess of 30 mph above the speed limit | in excess of 30 mph above the speed limit |
| | wrong direction on a limited access highway | wrong direction on a limited access highway |
| | cause an accident resulting in death or serious injury | cause an accident resulting in death or serious injury |
| | blood or breath 0.15 or greater | blood or breath 0.15 or greater |
| | refusing to submit to test if not a first offender | refusing to submit to test if not a first offender KRS §189A.010(11)(e) |
| | have passenger under age of 12 | have passenger under age of 12 |