

## Insurance Legislation Adopted by the 2009 Kentucky General Assembly (Regular Session)

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
Frankfort, Kentucky

### BULLETIN 2009 - 02

#### INSURANCE LEGISLATION ADOPTED BY THE 2009 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)

APRIL 6, 2009

THIS BULLETIN IS FOR INFORMATION PURPOSES ONLY. IT DOES NOT AMEND OR INTERPRET PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 2009 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2009. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JUNE 25, 2009.

*(Bills as enacted are available on the LRC Web site at [www.lrc.ky.gov/record/09rs/record.htm](http://www.lrc.ky.gov/record/09rs/record.htm))*

#### **House Bill 21 – Low-Speed Vehicles**

This bill amends KRS 186.010 to include a low-speed vehicle within the definition of “motor vehicle,” and to include an alternative-speed motorcycle within the definition of “motorcycle.” Further, tractors are specifically excluded from the definition of “motorcycle.”

A low-speed vehicle is defined as a motor vehicle that:

- Is self-propelled using an electric motor, combustion driven motor or a combination thereof;
- Is four (4) wheeled; and
- Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.

An alternative-speed motorcycle is defined as a motorcycle that:

- Is self-propelled using an electric motor, combustion drive motor, or a combination thereof;
- Is three (3) wheeled;
- Has a fully enclosed cab and includes at least one door for entry; and
- Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.

The bill creates a new statute within KRS 189 to allow a person to operate a low-speed vehicle on a highway if:

- The vehicle meets the federal motor vehicle safety standards for low-speed vehicles;
- The vehicle displays a seventeen (17) character vehicle identification number;
- The posted speed limit of the highway is thirty-five (35) miles per hour or less;
- The operator of the low-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;

- The operator has a valid operator’s license in his or her possession; and
- The low-speed vehicle has not been modified to increase its speed above its original standard manufactured limit.

Low-speed vehicles are required to be titled in accordance with KRS Chapter 186A, registered as a motor vehicle in accordance with KRS 186.050(3)(a), and insured in accordance with KRS 304.39-080. Operators of low-speed vehicles are required to comply with traffic regulations.

The bill creates a new statute within KRS 189 to allow a person to operate an alternative-speed motorcycle on a highway if:

- The motorcycle bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle’s maximum speed rating;
- The motorcycle is equipped with:
  - o Headlights, front and rear turn signal lights, tail lights, and brake lights;
  - o Three (3) red reflectors, two (2) of which must be placed on each side as far to the rear of the vehicle as practicable, and one (1) of which must be placed on the rear of the vehicle;
  - o An exterior mirror mounted on the driver’s side of the vehicle and either an exterior mirror mounted on the passenger’s side of the vehicle or an interior mirror;
  - o A parking brake;
  - o A windshield that conforms to the federal motor vehicle safety standard;
  - o A seatbelt assembly that conforms to the federal motor vehicle safety standard; and
  - o A roll bar, roll cage, or crush-proof body design;
- The posted speed limit of the highway is thirty-five (35) miles per hour or less;
- The operator of the alternative-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;
- The operator has a valid motorcycle operator’s license in his or her possession; and
- The alternative-speed motorcycle has not been modified to increase its speed above its original standard manufactured limit.

Alternative-speed motorcycles are required to be titled in accordance with KRS Chapter 186A, registered as a motorcycle in accordance with KRS 186.050(2), and insured in accordance with KRS 304.39-080. Operators of low-speed vehicles are required to comply with traffic regulations, except they are exempt from the protective headgear requirements.

*Contact: Property and Casualty Division  
(502) 564-6046*

**House Bill 309 – Salvage Motor Vehicle Titles**

This bill amends KRS 186A.520 to exempt the cost of parts and labor to reinstall a deployed airbag system from the calculation used in determining whether a motor vehicle meets the definition of a salvage vehicle. However, insurers are required to include airbag reinstallation costs in the computation of the total physical damage estimate according to the terms and conditions of individual policies, provided that the total costs payable by an insurer do not exceed the total retail value of the vehicle.

*Contact: Property and Casualty Division  
(502) 564-6046*

### **House Bill 414 – Pharmacy Audits**

This bill creates new statutes in KRS 304, Subtitle 17A, to establish parameters for an auditing entity to follow when conducting an audit of the records of a pharmacy. An “auditing entity” is defined as an insurer or administrator that conducts or arranges for the performance of an audit of a pharmacy’s records for the purpose of determining compliance with pharmacy benefit requirements.

The parameters within the bill include:

- Times frames for notice, scheduling, and completion of an audit;
- The basis for recoupment of claims;
- The period covered by the audit;
- The process for addressing discrepancies in a preliminary audit report and appealing a final audit report; and
- The basis for payment to the auditing entity.

House Bill 414 does not apply to Medicaid managed care organizations or audits regarding fraud, willful misrepresentation or abuse.

*Contact: Health Insurance Policy and Managed Care Division  
(502) 564-6088*

### **House Bill 445 – Deductibles for Food Spoilage Resulting From a Declared Federal Disaster**

This bill amends KRS 304.12-100 to provide a limited exemption to the rebate law by allowing an insurer to waive its deductible for food spoilage, in whole or in part, as a result of a natural disaster in a county declared to be a federal disaster area.

*Contact: Property and Casualty Division  
(502) 564-6046*

### **House Concurrent Resolution 85 – State Regulation of the Business of Insurance**

This resolution expresses the commitment of the General Assembly in maintaining the states as the sole regulators of the business of insurance and the opposition of any proposed law that would establish a federal insurance regulatory system.

*Contact: Commissioner’s Office  
(502) 564-6026*

### **Other Legislation of Interest**

#### **House Bill 39 – Motor Vehicle Operator’s Licenses**

This bill creates a new statute within KRS 186 to allow a person who is under eighteen (18) to apply for an operator’s license (rather than an intermediate license) if the person has:

- Held an instruction permit for a minimum of one hundred eighty (180) days; and
- Enlisted in the United States Armed Forces or a state National Guard.

The bill also amends KRS 186.412 to allow a person who was under eighteen (18) at the time of application for an instruction permit and is currently eighteen (18) or older to apply for an operator’s license (rather than an intermediate license) for a motor vehicle, motorcycle or moped if the person has:

- Held an instruction permit for at least one hundred eighty (180) days; and
- Completed a driver training program.

**House Bill 333 – American Medical Association’s “Guides to the Evaluation of Permanent Impairment.”**

This bill extends until July 2010 the use of the fifth edition of “Guides to the Evaluation of Permanent Impairment” published by the American Medical Association. The bill further requires the Department of Workers’ Claims to study the feasibility and advisability of adopting the sixth edition or retaining the use of the fifth edition. A report of the study is required to be submitted to the Legislative Research Commission by January 4, 2010. Finally, the bill allows the Department of Workers’ Claims to adopt use of the sixth edition by administrative regulation prior to July 2010 if the Commissioner of the Department of Workers’ Claims makes a written finding that the welfare of Kentucky’s workers would be materially enhanced by the adoption of the sixth edition.

/s/ Sharon P. Clark

Sharon P. Clark  
Commissioner  
Kentucky Department of Insurance

April 6, 2009

Date