Kentucky SB 195: New Contractor Liability Standards for Public Roadway Projects

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Kentucky Senate Bill (SB) 195 goes into effect on July 15, 2026, and creates significant new liability protections for contractors, subcontractors, design professionals, insurers, and public entities involved in state and local roadway, bridge, and street construction projects.

The law establishes new rebuttable presumptions following project acceptance, limits contractor liability for claims arising from governmental design and engineering decisions, and strengthens comparative fault defenses in roadway litigation involving impaired drivers, texting drivers, and excessive speeding.

At its core, SB 195 provides contractors performing construction, repair, or maintenance of a highway, road, bridge, or street with stronger defenses against third-party claims arising from project conditions they did not design, control, or undertake to address.

Contractors performing Kentucky roadway work should review project closeout procedures, contract language, and internal documentation practices carefully in light of the new law.

New Presumptions Following Project Acceptance

One of the most significant changes under SB 195 is the creation of a *rebuttable presumption* following acceptance of a road project for which:

- The design, plans, and specifications complied with applicable standards;
- The contractor followed those plans and specifications; and
- The contractor satisfied its responsibilities to the public owner.

These presumptions shift part of the evidentiary burden to claimants who allege that the work caused property damage,

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physical injury, or death.

Because SB 195 ties these presumptions to project acceptance, the contractual record of project completion and owner approval may take on increased importance in future disputes. Contractors should ensure that closeout milestones, including final inspections, punch-list completion, and formal owner acceptance, are clearly documented.

Importantly, these presumptions are *rebuttable*. Claims may still proceed where a plaintiff can establish that:

- A design error or omission by the design professional created a dangerous condition;
- The contractor deviated from the plans in a way that created a dangerous condition; or
- A latent defect in the contractor's work created a dangerous condition that was a *substantial factor* in causing the alleged harm.

Protections for Contractors Following Government-Provided Plans

SB 195's most significant practical protection is its limitation on contractor liability for certain third-party claims arising from governmental project decisions.

The statute generally protects contractors from civil liability for claims arising from:

- Design decisions made by the contracting governmental entity;
- Professional engineering judgments made by the public owner;
- Project-scope and inspection decisions controlled by the governmental entity; and
- Dangerous conditions outside the project's defined scope or beyond the requirements of the governing plans and specifications.

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In practical terms, contractors performing work in accordance with governmental project requirements are less likely to be liable for alleged defects stemming from public-owner decisions they did not create or control.

However, these protections are not unlimited. SB 195 removes those protections where the contractor:

- Contracts to provide design or professional engineering services; or
- Undertakes services outside the project scope or beyond the governing plans and specifications.

Contractors should be particularly mindful of field-level decisions involving:

- Traffic-control modifications;
- Changes to temporary barriers or safety measures;
- Drainage or grading adjustments;
- Inspection-related judgments; and
- Other project modifications not expressly directed or approved by the public owner.

A Texas court interpreting a similar highway-contractor liability statute concluded that where the contract does not set forth the method to be employed in performing the work, and where industry standard implementation methods are used, the contractor maintains statutory protections so long as project requirements are met.[1]

That decision suggests an important practical distinction under SB 195: implementation decisions made within the project's required framework may not eliminate statutory protection, while decisions that alter project scope or assume independent design responsibility may.

Because SB 195 defines "contractor" broadly, future courts may also apply these protections and limitations to subcontractors and lower-tier project participants. Kentucky contractors should therefore ensure that subcontract agreements clearly define decision-making authority and escalation procedures for field-level

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modifications.

Driver Conduct and Comparative-Fault Implications

SB 195 also introduces a new rebuttable presumption addressing driver conduct in roadway litigation. When a driver is alleged to have been impaired, is using a cellphone to text, or is traveling 25 miles per hour or more above the posted limit, the statute presumes that this conduct was a substantial factor in causing the injury, damages, or wrongful death.

This provision may influence comparative fault assessments and strengthen defenses for contractors in cases involving driver misconduct. For instance, in a case where a driver was speeding 25 miles per hour above the posted limit, a contractor defending a roadway-condition claim would enter that litigation with a statutory presumption already working in its favor.

Practical Guidance

Contractors, design professionals, insurers, and public entities should consider several practical steps in response to SB 195:

- Review contracts carefully to define design responsibility and project scope.
- Document all owner approvals, field changes, and specification deviations.
- Maintain detailed records regarding inspections, closeout procedures, and project acceptance.
- Clarify which parties control traffic-control and safety decisions during construction.
- Evaluate insurance and indemnity provisions in light of the statute's allocation-of-responsibility framework.
- Ensure subcontract agreements clearly allocate responsibility for discretionary field decisions.

Key Takeaways

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SB 195 represents a significant development in Kentucky public construction law and provides greater clarity regarding how liability may be allocated among contractors, design professionals, public owners, and third parties on roadway and bridge projects.

While the statute offers important new protections for contractors performing work within defined project requirements, it also places increased emphasis on clear project-scope definitions, thorough documentation, and careful project management throughout the life of the project.

As public project participants in Kentucky begin operating under this new framework, contract drafting, project-closeout procedures, and documentation practices will likely take on increased importance in managing construction-related risks and responding to future claims.

For additional guidance regarding SB 195, public construction risk management, or construction litigation strategy, please contact the author of this article or any member of the firm's Construction practice.

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[1] *See Webber, LLC v. Mubarak*, 711 S.W.3d 721 (Tex. App. 2025) (holding contractor remained protected under Texas highway-contractor immunity statute where contractor used an industry-standard implementation method consistent with project requirements, despite the absence of a contractually prescribed method).

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