138.210 Definitions for KRS 138.210 to 138.448.

As used in KRS 138.210 to 138.448, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the department in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the department. The department may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(3) "Annual survey value" means the average of the quarterly survey values for a fiscal year, as determined by the department, based upon surveys taken during the first month of each quarter of the fiscal year;

(4) "Average wholesale price" means the weighted average per gallon wholesale price of gasoline, based on the quarterly survey value as determined by the department, and as adjusted by KRS 138.228;

(5) "Bulk storage facility" means gasoline or special fuels storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuels for resale or delivery to retail outlets or consumers;

(6) "Cellulosic ethanol" has the same meaning as in KRS 141.422;

(7) "Dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, the person has sufficient financial rating and reputation to justify the conclusion that he or she will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(8) "Department" means the Department of Revenue;

(9) "Diesel fuel":

(a) Means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle; and

(b) Does not include unblended kerosene, No. 5 and No. 6 fuel oils as described in ASTM specification D 396, or F-76 Fuel Naval Distillate MILL-F-166884;

(10) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(11) "Ethanol" has the same meaning as in KRS 141.422;

(12) "Ethanol flex fuel" means an ethanol fuel blend of ethanol and gasoline that meets the current ASTM specification D5798;

(13) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance;

(14) "Fuel grade ethanol" includes ethanol, cellulosic ethanol, and ethanol flex fuel;

(15) "Gasoline":

(a) Means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of one hundred ten (110) degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines;

(b) Includes:

1. Casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use; and

2. Fuel grade ethanol; and

(c) Does not include propane, butane, or other liquefied petroleum gases; kerosene; cleaner solvent; fuel oil; diesel fuel; crude oil; or casing head, absorption, natural gasoline, and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel; industrial naphthas; rubber solvents; Stoddard solvent; mineral spirits; VM and P naphthas; turpentine substitutes; pentane; hexane; heptane; octane; benzene; benzine; xylol; toluol; aromatic petroleum solvents; alcohol; and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14.7) pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(16) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the

public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(17) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(18) "Quarterly survey value":

(a) Means a value determined by the department for each calendar quarter of the weighted average per gallon wholesale price of gasoline, determined from information available through independent statistical surveys of gasoline prices or, if requested, from information furnished by licensed gasoline dealers. The department shall determine, within twenty (20) days following the end of the first month of each calendar quarter, the weighted average of per gallon wholesale selling prices of gasoline for the previous month. That value shall be the quarterly survey value for the beginning of the following calendar quarter; and

(b) Shall be determined exclusive of any federal gasoline tax and any fee on imported oil imposed by the Congress of the United States;

(19) "Received," "received gasoline," or "received special fuels" means:

(a) 1. Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state.

2. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to administrative regulations prescribed by the department; and

(b) 1. Gasoline and special fuels acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution.

2. Dealers may sell gasoline or special fuels to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In these instances, the licensed bonded dealer purchasing the gasoline or special fuels shall be deemed to have received that fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(20) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(21) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle;

(22) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(23) "Storage" means all gasoline and special fuels produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(24) "Transporter" means any person who transports gasoline or special fuels on which the tax has not been paid or assumed; and

(25) "Wholesale floor price" means two dollars and seventeen and seven-tenths cents ($2.177) per gallon.

Effective: August 1, 2026

History: Amended 2026 Ky. Acts ch. 161, sec. 97, effective August 1, 2026; and ch. 198, sec. 60, effective August 1, 2026. -- Amended 2015 Ky. Acts ch. 67, sec. 14, effective March 25, 2015. -- Amended 2009 Ky. Acts ch. 8, sec. 1, effective March 13, 2009. -- Amended 2006 Ky. Acts ch. 252, Pt. XVIII, sec.1, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 353, effective June 20, 2005; and ch. 173, Pt. XVII, sec. 1, effective March 20, 2005. -- Amended 2002 Ky. Acts ch. 267, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 397, sec. 4, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 390, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 98, sec. 1, effective July 13, 1990; and ch. 177, sec. 3, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 285, sec. 1, effective August 1, 1988. -- Amended 1986 Ky. Acts ch. 174, sec. 12, effective July 1, 1986. -- Amended 1984 Ky. Acts ch. 260, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 255, sec. 1, effective July 15, 1982; and ch. 386, sec. 5, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 218, sec. 1, effective July 1, 1980. -- Amended 1962 Ky. Acts ch. 203, sec. 1. -- Amended 1952 Ky. Acts ch. 193, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4281g-1.

Legislative Research Commission Note (8/1/2026). This statute was amended by 2026 RS HB 757 (2026 Ky. Acts ch. 161, sec. 97), which was subsequently amended by 2026 RS HB 869 (2026 Ky. Acts ch. 198, sec. 60), and the amendments have been codified together.