

## CHAPTER 124

## (HB 293)

AN ACT relating to taxation and governmental services provided therefrom.

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

Section 1. KRS 139.050 is amended to read as follows:

- (1) "Gross receipts" *and* "sales price" ~~mean~~<sup>means</sup> the total amount *or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented,* ~~[of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail,"]~~ valued in money, whether received in money or otherwise, without any deduction ~~for~~<sup>on account of</sup> any of the following:
  - (a) The *retailer's* cost of the property sold~~. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property~~;
  - (b) The cost of the materials used, labor or service cost, interest ~~paid~~, losses, *all costs of transportation to the retailer, all taxes imposed on the retailer,* or any other expense *of the retailer*;
  - (c) *Charges by the retailer for any services necessary to complete the sale*~~[The cost of transportation of the property prior to its sale to the purchaser];~~ ~~or~~
  - (d) *Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and*
  - (e) *Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale*~~[Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price].~~
- (2) "Gross receipts" *and* "sales price" *shall not include*~~[The total amount of the sale or lease or rental price includes all of the following]:~~
  - (a) *Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale*~~[Any services that are a part of the sale];~~
  - (b) *Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser*~~[All receipts, cash, credits, and property of any kind];~~
  - (c) *Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or*

- (d) *The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser*~~[Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale].~~

~~[(3) "Gross receipts" do not include any of the following:~~

- ~~(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);~~
- ~~(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;~~
- ~~(c) The price received for labor or services used in installing or applying the property sold;~~
- ~~(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;~~
- ~~(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;~~
- ~~(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);~~
- ~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243;~~
- ~~(h) Amounts received for communications services utilized in providing a prepaid calling arrangement as defined in KRS 139.160.~~

~~(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.]~~

Section 2. KRS 139.100 is amended to read as follows:

- (1) "Retail sale"~~["or "sale at retail"]~~ means *any*~~["or~~:
- (a) 1. ~~A] sale, lease, or rental for any purpose other than resale, sublease, or subrent in the regular course of business of tangible personal property["or~~
2. ~~The furnishing of the facilities and services mentioned in subsection (2) of this section;~~
- (b) ~~The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.~~

- ~~(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:~~
- ~~(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;~~
  - ~~(b) The furnishing of sewer services;~~
  - ~~(c) The sale of admissions, except those taxed under KRS 138.480;~~
  - ~~(d) The furnishing of communications services, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, to a service address in this state, regardless of where those services are billed or paid, when the communications service:
    - ~~1. Originates and terminates in this state;~~
    - ~~2. Originates in this state; or~~
    - ~~3. Terminates in this state;~~~~
  - ~~(e) The furnishing of mobile telecommunications services as defined in 4 U.S.C. sec. 124 to a customer with a service address in this state.~~
- ~~(3) For the purposes of this chapter, "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. "Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:~~
- ~~(a) Information services;~~
  - ~~(b) Internet access;~~
  - ~~(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;~~
  - ~~(d) The sale of directory and other advertising and listing services;~~
  - ~~(e) The sale of one way paging services;~~
  - ~~(f) Billing and collection services provided to another communications service provider;~~
- ~~or~~

~~(g) Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.~~

~~(4) For the purposes of this chapter, "service address" means:~~

~~(a) The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of maritime systems, air to-ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;~~

~~(b) In the case of a communications service, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and~~

~~(c) In the case of mobile telecommunications service as defined in 4 U.S.C. sec. 124, the service address shall be the place of primary use as defined and determined under 4 U.S.C. secs. 116 to 126].~~

Section 3. KRS 139.110 is amended to read as follows:

(1) "Retailer" *means*~~[includes]~~:

(a) Every *person engaged in the business of making retail sales*~~[seller who makes any "retail sale" or "sales at retail,"] or *furnishing*[who furnishes] any services[ and facilities] included in *Section 7 of this Act*~~[KRS 139.100, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others];~~~~

(b) Every person engaged in the business~~[ of making sales for storage, use or other consumption or in the business]~~ of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;

(c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

(d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during *the*~~[such] meeting.~~

(2) When the cabinet determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of *the*~~[such] dealers, distributors, supervisors or employers, the cabinet may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.~~

Section 4. KRS 139.120 is amended to read as follows:

- (1) "Sale" means, the furnishing of any services ~~and facilities~~ included in *Section 7 of this Act and*~~KRS 139.100 or,~~ any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes:
- (a)~~(1)~~ The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for *purchasers*~~consumers~~ who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting;
  - (b)~~(2)~~ A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;
  - (c)~~(3)~~ A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the *purchaser*~~customer~~.
- (2) *"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to purchase the property or extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1). "Lease or rental" shall not include:*
- (a) *A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;*
  - (b) *A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; and*
  - (c) *Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property; and*

*These definitions shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law.*

Section 5. KRS 139.140 is amended to read as follows:

"Seller" includes every person engaged in the business of selling tangible personal property or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, *and every person engaged in making sales for resale.*

Section 6. KRS 139.160 is amended to read as follows:

- (1) "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses,

*regardless of the method of delivery*, and includes natural, artificial and mixed gas, electricity, water, *steam, and prewritten computer software.*

(2) **"Prewritten computer software" means:**

- (a) *Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more "prewritten computer software" programs or portions thereof does not cause the combination to be other than "prewritten computer software."*
- (b) *Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser.*
- (c) *Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute "prewritten computer software."*~~and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangements" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangements" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place.~~

Section 7. KRS 139.200 is amended to read as follows:

~~For the privilege of making "retail sales" or "sales at retail,"~~ A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts ~~of any retailer~~ derived from:

- (1) ~~["]~~Retail sales, *regardless of the method of delivery*,~~[" or "sales at retail"]~~ made within this Commonwealth; *and*
- (2) *The furnishing of the following:*
  - (a) *The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;*
  - (b) *Sewer services;*
  - (c) *The sale of admissions except those taxed under KRS 138.480;*
  - (d) *Communications service to a service address in this state, other than mobile telecommunications services as defined in Section 8 of this Act, regardless of where those services are billed or paid, when the communications service:*
    - 1. *Originates and terminates in this state;*

2. *Originates in this state; or*
  3. *Terminates in this state; and*
- (e) *Mobile telecommunications services as defined in Section 8 of this Act, to a purchaser whose place of primary use is in this state*~~[on and after July 1, 1990]~~.

SECTION 8. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 7, 23, and 29 of this Act:*

- (1) *"Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.*
- (2) *"Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls.*
- (3) *"Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.*
- (4) *"Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.*
  - (a) *"Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, prepaid calling services, postpaid calling services, private communication services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile telecommunications service, and Internet telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission control protocol, Internet protocol, or other similar means.*
  - (b) *"Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:*
    1. *Information services;*
    2. *Internet access;*
    3. *Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;*
    4. *The sale of directory and other advertising and listing services;*
    5. *The sale of one-way paging services;*

6. *Billing and collection services provided to another communications service provider; and*
  7. *Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996.*
- (5) *"Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in Section 23 of this Act. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.*
  - (6) *"Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.*
  - (7) *"End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.*
  - (8) *"Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).*
  - (9) *"Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).*
  - (10) *"Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.*
  - (11) *"Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communication service that would be a prepaid service except that it is not exclusively a communications service.*
  - (12) *"Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.*
  - (13) *"Private communication service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.*
  - (14) (a) *"Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.*

- (b) *If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.*
- (c) *If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.*

Section 9. KRS 139.210 is amended to read as follows:

- (1) ~~The taxes herein imposed shall be collected by the retailer from the consumer.~~
- (2) Except as provided in subsection (2) ~~(3)~~ of this section, the tax *shall be* required to be collected by the retailer from the *purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax* ~~consumer~~ shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.
- (2) ~~(3)~~ The cabinet may relieve certain retailers from the provisions of subsection (1) ~~(2)~~ of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. *If the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.*
- (3) ~~(4)~~ The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.
- (4) ~~(5)~~ The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 10. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 *or required to be collected under Section 17 of this Act* or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Section 11. KRS 139.230 is amended to read as follows:

~~The cabinet is authorized to prepare suitable brackets of prices for the collection of the taxes imposed by this chapter in order~~ To eliminate fractions of one cent (\$0.01), and *to insure* ~~so~~ that the aggregate collections of taxes by a retailer, so far as may be practicable, shall be equal to six percent (6%) of gross receipts or sales price, as the case may be, *the tax shall be computed by applying the six percent (6%) rate to the sales price carried to the third decimal place and rounded to the nearest cent by eliminating any fraction less than one-half of one cent (\$0.005) and increasing any fraction of one-half of one cent (\$0.005) or over to the next higher cent.*

Section 12. KRS 139.240 is amended to read as follows:

- (1) Every person presently engaged or desiring to engage in or conduct business as a *retailer or seller* within this state shall file with the cabinet an application for a permit for each place of business.
- (2) Every application for a permit shall:
  - (a) Be made upon a form prescribed by the cabinet;
  - (b) Set forth the name under which the applicant transacts or intends to transact business and the location of ~~the~~<sup>his</sup> place or places of business; *and*
  - (c) Set forth ~~such~~ other information as the cabinet may require.
- (3) The application shall be signed by:
  - (a) The owner, if he or she is a natural person;
  - (b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;
  - (c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or
  - (d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.
- (4) *A written signature shall not be required if the applicant registers electronically.*

Section 13. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the *duty to collect the taxes imposed by Section 7 of this Act and KRS 139.310*,~~[sales tax]~~ it shall be presumed that all gross receipts *and all tangible personal property sold by any person for delivery in this state* are subject to the tax until the contrary is established. The burden of proving *the contrary*~~[that a sale of tangible personal property is not a "retail sale" or "sale at retail"]~~ is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

- (1) Purchased for resale according to the provisions of KRS 139.270~~[or 139.410]~~;
- (2) Purchased through a properly executed certificate of exemption in accordance with *Section 14 of this Act*~~[KRS 139.490]~~~~;~~~~[or]~~
- (3) Purchased according to regulations of the Revenue Cabinet governing a direct pay authorization; *or*
- (4) *Purchased under a form issued pursuant to Section 24 or 25 of this Act.*

Section 14. KRS 139.270 is amended to read as follows:

- (1) The resale certificate *or certificate of exemption* relieves the *retailer or seller* from the burden of proof only if taken in good faith from a person who,~~[-~~
  - ~~(a) Is engaged in the business of selling tangible personal property;~~
  - ~~(b) Holds the permit provided for in KRS 139.250; and~~

~~(e) ] at the time of purchasing the tangible personal property: [; ]~~

- (a) Indicates ~~an~~<sup>his</sup> intention to sell it in the regular course of business by executing the resale certificate; *or*
- (b) *Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.*

*This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claiming of an exemption.*

- (2) "Good faith" shall be demonstrated by the *retailer or* seller if ~~the retailer or seller~~<sup>he</sup>:
  - (a) Accepts a properly completed resale certificate *or certificate of exemption; and*~~;~~
  - (b) Maintains a file of ~~the~~<sup>such</sup> certificate in accordance with KRS 139.720~~;~~<sup>and</sup>
  - ~~(c) Determines that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.~~
- (3) If the cabinet later finds that the *retailer or* seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status *or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose*, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 15. KRS 139.280 is amended to read as follows:

- (1) The *resale* certificate shall:
  - (a) Be signed by and bear the name and address of the purchaser;
  - (b) Indicate the number of the permit issued to the purchaser;
  - (c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.
- (2) The certificate shall be substantially in ~~a~~<sup>such</sup> form as the cabinet may prescribe.
- (3) *A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.*

Section 16. KRS 139.290 is amended to read as follows:

- (1) If a *retailer or seller*~~[purchaser]~~ who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the *retailer or seller*~~[purchaser]~~ as of the time the property is first used by ~~the retailer or seller~~<sup>him</sup>, and the sales price of the property to ~~the retailer or seller~~<sup>him</sup> shall be deemed the measure of the tax.~~[ Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser. ]~~

- (2) If the sole use of the property *by the retailer* other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the *retailer*~~[purchaser]~~ shall include in~~[-his]~~ gross receipts the amount of the rental charged rather than the sales price of the property~~[-to him]~~.
- (3) *If a retailer sells tangible personal property before making any use thereof, other than retention, demonstration, or display while holding it for sale in the regular course of business, the retailer may take a deduction of the purchase price of the property if, with respect to its purchase, the retailer has reimbursed the vendor for the sales tax or has paid the use tax. If a deduction is taken by the retailer, no refund or credit shall be allowed to the vendor with respect to the sale of that property.*

Section 17. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state ~~shall[and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable,]~~ collect the tax *imposed by*~~[levied under]~~ KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.
- (2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:
  - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;
  - (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
  - (c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
  - (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

- (e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 18. KRS 139.350 is amended to read as follows:

- (1) A retailer *may deduct as a bad debt the amount* ~~[is relieved from liability to collect use tax which shall become due and payable subsequent to June 30, 1960, insofar as the measure of the tax is represented by accounts which have been]~~ found to be worthless and charged off for income tax purposes *provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.*
- (2) *In determining the basis for calculating bad debt recovery, the definition of "bad debt" as provided in 26 U.S.C. sec. 166 shall be used, except "bad debt" shall not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectable amounts on property that remains in the possession of the retailer until the full purchase price is paid, expenses incurred in attempting to collect any debt, or repossessed property.*
- (3) *Notwithstanding KRS 131.183, any deduction taken for bad debts shall not include interest.*
- (4) *A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed* ~~[If the retailer has previously paid the amount of the tax, he may, under rules and regulations prescribed by the cabinet, take as a deduction the amount found worthless and charged off for income tax purposes].~~
- (5) If any *bad debt* ~~[such]~~ accounts are thereafter in whole or in part collected by the retailer, the amount ~~[so]~~ collected shall be included in the ~~[first]~~ return filed *for the period in which the* ~~[after such]~~ collection *is made* and the amount of the tax *due shall be* ~~[thereon]~~ paid with the return.
- (6) *If a retailer's filing responsibilities have been assumed by a certified service provider as provided by KRS 139.795, the certified service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.*
- (7) *For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and the sales tax on it, proportionally, and secondly to interest, service charges, and any other charges.*

Section 19. KRS 139.380 is amended to read as follows:

The tax required to be collected by the retailer under KRS 139.340 from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales. ***If taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount and shall be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales check or other proof of sales.***

Section 20. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property~~[ the gross receipts from the sale of which, or the storage, use, or other consumption of]~~ which~~[,]~~ this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
  - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
  - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;
- (4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;
- (5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the **retailer**~~[seller]~~ via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not

qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

- (8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;
- (b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:
1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
  2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
  3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
- (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- (9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;
- (10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the *retailer*~~[seller]~~ and the *retailer*~~[seller]~~ maintains a file of the proof;
- (11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale~~[are not subject to the sales or use tax]~~. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the

person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.
2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
  - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
  - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.
  - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.
3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the *retailer's*~~seller's~~ own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is

selected by the **purchaser**{buyer} or **retailer**{seller} or an agent or representative of the **purchaser**{buyer} or **retailer**{seller}, or whether the F.O.B. is **retailer's**{seller's} shipping point or **purchaser's**{buyer's} destination.

- (a) As used in this subsection:
1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
  2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
- (b) The **retailer**{seller} shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;
- (14) Gross receipts from the sale of water used in the raising of equine as a business;
- (15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the **retailer's**{seller's} own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the **purchaser**{buyer} or **retailer**{seller} or an agent or representative of the **purchaser**{buyer} or **retailer**{seller}, or whether the F.O.B. is **the retailer's**{seller's} shipping point or **the purchaser's**{buyer's} destination.
- (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific **purchaser**{customer} specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
- (b) The **retailer**{seller} shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;~~and~~
- (16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the **purchaser**{buyer} or **retailer**{seller}, or is an agent or representative of the **purchaser**{buyer} or **retailer**{seller}, or whether the F.O.B. is **the retailer's**{seller's} shipping point or **purchaser's**{buyer's} destination;
- (17) *Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;*
- (18) *Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;*
- (19) *The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;*

- (20) *Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;*
- (21) *Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and*
- (22) *Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.*

Section 21. KRS 139.472 is amended to read as follows:

- (1) *Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of*~~["Prescription medicine" shall mean and include]:~~
  - (a) *A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;*~~[Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is:~~
    - 1. ~~Prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; or~~
    - 2. ~~Commonly recognized as a substance or preparation prescribed and dispensed as provided in subparagraph 1. of this paragraph and intended to be distributed as a free sample to or from a physician's office; and]~~
  - (b) *Medical oxygen, including high pressure cylinders, cryogenic tanks, or oxygen concentrators, tubes, masks, and similar items required for the delivery of oxygen to the patient when purchased by an individual*~~[the patient]~~ *for private use;*
  - (c) *Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;*
  - (d) *Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;*
  - (e) *Prosthetic devices purchased by any healthcare provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;*
  - (f) *Prosthetic devices that are individually designed or created for an individual regardless of the purchaser; and*
  - (g) *Crutches, walkers, wheelchairs, wheelchair lifting devices, and wheelchair repair and replacement parts purchased by an individual for private use.*
- (2) *Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable*~~["Prosthetic devices and physical aids" for the purpose of this section shall mean and include artificial devices prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial~~

eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs, wheelchair repair and replacement parts, and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, urostomy supplies, ileostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics].

(3) *As used in this section:*

- (a) *"Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in Section 22 of this Act, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, and is:*
1. *Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or*
  2. *Intended to affect the structure or any function of the human body.*
- (b) *"Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.*
- (c) 1. *"Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:*
- a. *Artificially replace a missing portion of the body;*
  - b. *Prevent or correct a physical deformity or malfunction; or*
  - c. *Support a weak or deformed portion of the body.*
2. *"Prosthetic device" shall not include any of the following:*
- a. *Corrective eyeglasses;*
  - b. *Contact lenses; or*
  - c. *Dental prosthesis*[The terms "sale at retail," "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage, or consumption of prescription medicine, prosthetic devices, and physical aids].

Section 22. KRS 139.485 is amended to read as follows:

- (1) Except as otherwise provided, the terms[~~"sale at retail,"~~] "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food *and food ingredients* for human consumption.
- (2) The term "food" *and food ingredients* as used in subsection (1) of this section *means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not*[~~shall~~] include:
  - (a) *Alcoholic beverages*[~~Cereals and cereal products~~];

- (b) *Tobacco*~~[Milk and milk products];~~
  - (c) *Candy*~~[Meat and meat products];~~
  - (d) *Dietary supplements*~~[Fish and fish products];~~
  - (e) *Soft drinks; and*~~[Eggs and egg products;]~~
  - (f) *Prepared food*~~[Vegetables and vegetable products;~~
  - ~~(g) Fruit and fruit products, including fruit juices;~~
  - ~~(h) Sugar, sugar products and sugar substitutes; other than candy, confectionery and chewing gum;~~
  - ~~(i) Coffee and coffee substitutes;~~
  - ~~(j) Tea, cocoa and cocoa products; other than candy and confectionery;~~
  - ~~(k) Spices, condiments, and salt;~~
  - ~~(l) Oleomargarine].~~
- (3) *For purposes of this section*~~[The term "food" as used in subsection (1) of this section shall not include]:~~
- (a) *"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume*~~[Candy, confectionery and chewing gum];~~
  - (b) *"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco*~~[Spirituuous, malt, or vinous liquors];~~
  - (c) *"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:*
    - 1. *Any preparation containing flour; or*
    - 2. *Any item requiring refrigeration*~~[Cocktail mixes];~~
  - (d) *"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:*
    - 1. *Contains one (1) or more of the following dietary ingredients:*
      - a. *A vitamin;*
      - b. *A mineral;*
      - c. *An herb or other botanical;*
      - d. *An amino acid;*
      - e. *A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or*
      - f. *A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;*
    - 2. *Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as*

*conventional food and is not represented for use as a sole item of a meal or of the diet; and*

3. *Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36*~~[Soft drinks, sodas, and similar beverages];~~
  - (e) *"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume*~~[Medicines, tonics, vitamins, and other dietary supplements];~~
  - (f) *"Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment*~~[Water, mineral water, carbonated water and ice];~~
  - (g) *"Prepared food" means:*
    1. *Food sold in a heated state or heated by the retailer;*
    2. *Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food borne illnesses; or*
    3. *Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.*
  - (h) *Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:*
    1. *Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or*
    2. *Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.*
- (4) *Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, nonmechanical self-service vending systems, or by street vendors shall be subject to the tax imposed by this chapter*~~[Pet foods;~~
  - ~~(h) Meals served on or off the premises of the retailer;~~
  - ~~(i) Food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer;~~
  - ~~(j) Food sold by retailers who ordinarily sell for consumption on or near the premises of the retailer even though the food is sold on a "take-out" or "to go" order and is actually bagged, packaged, or wrapped and taken from the premises of the retailer;~~
  - ~~(k) Food sold through vending machines;~~
  - ~~(l) Food sold by street vendors; and~~

~~(m) Food sold through nonmechanical self-service vending systems].~~

SECTION 23. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by Section 7 of this Act and 139.310, the retailer shall source the retail sale, excluding sales of communications service as follows:*
- (a) *Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.*
  - (b) *Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.*
  - (c) *Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:*
    - 1. *The address of the purchaser;*
    - 2. *The billing address of the purchaser; or*
    - 3. *The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.*
- (2) *The retailer shall source communications services as follows:*
- (a) *A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use.*
  - (b) *A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer.*
  - (c) *A sale of prepaid calling service shall be sourced according to the provisions of subsection (1) of this section if the sale is of a prepaid calling service that is also a mobile telecommunications service and the retailer does not know the address where the service is received. The sale shall be sourced to the first of the following that is known by the retailer:*
    - 1. *The address of the customer available from the business records of the retailer;*
    - 2. *The billing address of the customer;*
    - 3. *The address from which the service was provided; or*
    - 4. *The location associated with the mobile telephone number.*
  - (d) *A sale of a private communication service shall be sourced as follows:*
    - 1. *Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.*

2. *Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.*
  3. *Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.*
  4. *Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.*
- (e) *A sale of other communications services sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.*
- (3) *Nothing included in subsections (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any other provision of this chapter to the contrary, a business purchaser that is not a holder of a direct pay permit that knows at the time of the purchase of a digital good, computer software delivered electronically, or a service that is a digital good that the item purchased will be concurrently available for use in more than one (1) jurisdiction shall deliver to the retailer, in conjunction with the purchase, a Multiple Points of Use (MPU) Exemption Form disclosing this fact.*

- (1) *Upon receipt of the MPU Exemption Form, the retailer shall be relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.*
- (2) *A purchaser delivering the MPU Exemption Form may use any reasonable and consistent uniform method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.*
- (3) *The MPU Exemption Form shall remain in effect for all future sales by the retailer to the purchaser, except as to a subsequent sale that has a specific apportionment that is governed by subsection (2) of this section and the facts existing at the time of the sale, until it is revoked in writing.*
- (4) *A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the retailer. A direct-pay permit holder shall follow the provisions of subsection (2) of this section in apportioning the tax due on a digital good or service or computer software delivered electronically that will be concurrently available for use in more than one (1) jurisdiction.*

SECTION 25. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of this chapter, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the retailer in conjunction with the*

*purchase either a Direct-Mail Form or information to show the jurisdictions in which the direct-mail is delivered to recipients.*

- (a) *Upon receipt of the Direct-Mail Form, the retailer shall be relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser shall pay or remit the applicable tax on a direct-pay basis. A Direct-Mail Form shall remain in effect for all future sales of direct mail by the retailer to the purchaser until it is revoked in writing.*
- (b) *Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the retailer shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the retailer is relieved of any further obligation to collect the tax on any transaction where the retailer has collected the tax pursuant to the delivery information provided by the purchaser.*
- (2) *If the purchaser of direct mail does not have a direct-pay permit and does not provide the retailer with either a Direct-Mail Form or delivery information, as required by subsection (1) of this section, the retailer shall collect the tax according to the address from where the direct mail was shipped. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state in which the direct mail is delivered.*
- (3) *If a purchaser of direct mail provides the retailer with documentation of direct-pay authority, the purchaser shall not be required to provide a Direct-Mail Form or delivery information to the retailer.*
- (4) *"Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material. "Direct-mail" does not include multiple items of printed material delivered to a single address.*

Section 26. KRS 139.550 is amended to read as follows:

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in ~~a such~~ form ~~as~~ the cabinet may prescribe.
- (2) For purposes of the sales tax, a return shall be filed by every **retailer or** seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. *If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.*
- (3) Returns shall be signed by the person required to file the return or by ~~a his~~ duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a

nonpermit basis, under~~[such]~~ rules as the cabinet shall provide for the efficient collection of the sales tax on~~[such]~~ sales.

- (5) ***The return shall show the amount of the taxes for the period covered by the return and other information the cabinet deems necessary for the proper administration of this chapter.***

Section 27. KRS 139.735 is amended to read as follows:

- (1) The Revenue Cabinet shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270~~[, 139.410, 139.490,]~~ and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.
- (2) It shall be mandatory upon the Revenue Cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270~~[, 139.410, 139.490,]~~ and 103 KAR 31.030.

Section 28. KRS 139.770 is amended to read as follows:

- (1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.
- (2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain such information as the cabinet may require.
- (3) No taxpayer ***or certified service provider as provided by KRS 139.795*** shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to ***the purchaser***~~[him]~~ by the taxpayer ***or certified service provider as provided by KRS 139.795*** who paid the taxes to the State Treasury.
- (4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer ***or certified service provider as provided by KRS 139.795*** pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 29. KRS 139.775 is amended to read as follows:

- (1) As it relates to the taxation under this chapter of mobile telecommunications services as defined in ***Section 8 of this Act***, ~~[4 U.S.C. sec. 124:~~
  - ~~(1)~~ the provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.
  - (2) If a ***communications services or mobile telecommunications services*** customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall, ***within four (4) years of the date of the bill***, notify the home service provider about the alleged error, in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer~~[within four (4) years~~

~~of the customer's notification~~, or explain to the customer in writing *why*~~how~~ the bill was correct and why a refund or credit will not be made.

- (3) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.
- (4) *Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.*

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *For all sales and use tax transactions where the purchaser believes that tax has been charged in error, a cause of action against the retailer for the over-collected sales or use taxes does not accrue until the purchaser has provided notice to the retailer and the retailer has had sixty (60) days to respond. The notice to the retailer shall contain the information necessary to determine the validity of the inquiry.*
- (2) *In connection with a purchaser's inquiry to a retailer regarding over-collected sales or use taxes, a retailer shall be presumed to have a reasonable business practice, if in the collection of the sales or use tax the retailer:*
  - (a) *Uses either a certified service provider, certified automated system, or a proprietary system as provided by KRS 139.795; and*
  - (b) *Has remitted all taxes collected less any deductions, credits or collection allowances.*
- (3) *Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.*

Section 31. KRS 139.785 is amended to read as follows:

- (1) The cabinet is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the cabinet is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.
- (2) The cabinet is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. *Notwithstanding the provisions of KRS Chapter 13A, the Cabinet may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.*
- (3) The secretary of the cabinet or the secretary's designee, *the state budget director or the director's designee, and two (2) legislators are*~~is~~ authorized to represent this state before the other states that are signatories to the agreement. *One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.*

Section 32. KRS 139.990 is amended to read as follows:

- (1) Any person who executes:
  - (a) A resale certificate for property in accordance with KRS 139.270 ~~or 139.410,~~ knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;
  - (b) An exemption certificate for property in accordance with *Section 14 of this Act*~~KRS 139.490~~, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner; or
  - (c) A direct pay authorization for property not in accordance with 103 KAR 31.030;
  - (d) *A MPU exemption form or Direct Mail Form issued not in accordance with the provisions of Sections 24 and 25 of this Act.*

shall be guilty of a Class B misdemeanor.

- (2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.
- (3) Any person who violates any of the provisions of KRS 139.220,~~139.370,~~ 139.380, *or* 139.700~~, or 139.750~~ shall be guilty of a Class B misdemeanor.
- (4) Any person who violates any of the regulations promulgated by the cabinet ~~under KRS 139.230~~ shall be guilty of a Class B misdemeanor.
- (5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 33. KRS 325.445 is amended to read as follows:

A certified public accountant licensed in the Commonwealth under the provisions of this chapter, or an attorney licensed to practice law in the Commonwealth of Kentucky, with express authorization of a client may act as an agent of that client to:

- (1) Complete, sign, and file an application for a seller's permit to do business as provided in KRS 139.240;
- (2) Complete, sign, and file an application for a seller's permit for any out-of-state retailer who is not required to file for the collection of use tax under KRS 139.340 but is seeking to do so on a voluntary basis as provided by KRS 139.700;
- ~~(3) Complete, sign, and file an application for a general business license as provided for in KRS 154.12-219. A certified public accountant acting under this subsection shall remit the license fee required under KRS 154.12-219 with the application and may seek reimbursement from the applicant for that fee;~~
- ~~(4)~~ Complete, sign, and file an application for a certificate of registration to sever or process coal in this state as required by KRS 143.030; and

~~(4)~~~~(5)~~ Complete, sign, and file an application for an employer's withholding, corporation income, and corporation license tax registration numbers as may be required by KRS 131.130.

SECTION 34. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Bill of lading" means a document evidencing the purchase or, or delivery order for, building materials issued by a person engaged in a business that sold or leased the building materials;*

(b) *"Building materials" means equipment or materials associated with new home construction, home remodeling, or home maintenance, including but not limited to:*

1. *Agriculture products;*
2. *Asphalt;*
3. *Concrete;*
4. *Crushed stone;*
5. *Excavation equipment;*
6. *Fill dirt and rock;*
7. *Glass;*
8. *Landscaping materials;*
9. *Lumber or other wood products;*
10. *Minerals;*
11. *Roofing materials; and*
12. *Steel products;*

(c) *"Home" means:*

1. *A site where a single or multi-family housing unit is being initially constructed; and*
2. *A site where construction of a single or multi-family housing unit is complete and persons inhabit the housing unit; and*

(d) *"State road" means a state or federal highway but does not mean an interstate or county road.*

(2) *Other statutes to the contrary in this chapter notwithstanding, any vehicle hauling building materials to a home shall be allowed, subject to the provisions of this section, to travel on any state road without a permit and without being subject to a fine, if the weight of the vehicle is within the limits of the registration issued to the vehicle and within the axle limits for the vehicle, even if the vehicle's gross weight or length, including vehicle and load, exceed the limits prescribed by this chapter or in other aspects fail to comply with this chapter.*

(3) *A vehicle hauling building materials under this section shall be allowed to travel the most direct route, in the opinion of the operator, to the vehicle's point of destination, provided*

*any road traveled as the most direct route shall not be further than fifteen (15) miles from a state road that is classified to carry the registered weight of the vehicle. If a vehicle is traveling a road classified by the cabinet as a single "A" highway, the vehicle or its load cannot exceed ninety-six (96) inches in width. If a vehicle or its load exceed ninety-six (96) inches in width, the operator shall be required to obtain the appropriate overdimensional permit required by this chapter to travel the proposed route. The operator of a vehicle hauling building materials under this section shall have in his or her possession a bill of lading.*

- (4) *All vehicles hauling building materials under this section shall be prohibited from exceeding the established width and posted bridge weight limits for any route the vehicle travels. A vehicle that exceeds the width or bridge limits for its posted routes shall be required to obtain the appropriate overdimensional or overweight permit required by this chapter.*

Section 35. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

- (1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;
- (2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;
- (3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;
- (4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;
- (5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.
- (6) Notwithstanding the provisions of this section, any truck hauling building materials ***under Section 34 of this Act, or*** to a road construction project on a highway rated less than the maximum weight provided above, may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. ~~This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.~~

Section 36. KRS 189.222 is amended to read as follows:

- (1) ***Except as provided in subsection (2) of this section,*** the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to

unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

- (a) Height, thirteen and one-half (13-1/2) feet;
  - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
  - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
  - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
  - (e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.
- (2) ***In addition to the provisions of Section 34 of this Act, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:***
- (a) ***Meats or agricultural crop products originating from a farm to first market;***
  - (b) ***Livestock or poultry from their point of origin to first market;***
  - (c) ***Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or***
  - (d) ***Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.***

- (3) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;
- ~~(4)(3)~~ Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.
- ~~(5)(4)~~ Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- ~~(6)(5)~~ Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- ~~(7)(6)~~ The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- ~~(8)(7)~~ Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
- (a) Width, one hundred two (102) inches, including any part of the body or load;
  - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- ~~(9)(8)~~ Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural

products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.

~~(10)~~~~(9)~~ The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Section 37. KRS 189.230 is amended to read as follows:

- (1) ***Except as provided in Sections 34 and 36 of this Act and subsection (6) of Section 35 of this Act,*** the department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (3) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department or fiscal court may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.
- (2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).
- (3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person shall not operate any motor truck or semitrailer truck contrary to its provisions.
- (4) A fiscal court shall require all persons applying for a permit issued under KRS 189.212 to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under KRS 189.212. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under KRS 189.212. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.
- (5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.

- (6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a cooperative agreement with a fiscal court, the permit issued under KRS 189.212 shall immediately be revoked by the fiscal court.

Section 38. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(10)~~(9)~~ or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

- (1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;
- (2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;
- (3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;
- (4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;
- (5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.
- (6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

Section 39. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossession shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;~~and~~
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;
- (15) ***Motor vehicles registered under Section 42 of this Act that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;***
- (16) ***Farm trucks registered under subsection (4) of Section 42 of this Act that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and***
- (17) ***In order to be eligible for the exemption established in subsections (15) and (16) of this section, motor vehicles shall be required to be registered at the appropriate range for the declared gross weight of the vehicle established in subsection (3)(b) of Section 42 of this Act and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid.***

Section 40. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;
- (12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement

parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

- (13) Tombstones and other memorial grave markers;
- (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
  - (a) Operate farm machinery as defined in subsection (11) of this section;
  - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
  - (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
  - (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
  - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section;  
or
  - (f) Operate on-farm dairy facilities;
- (17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or

structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
  - (a) Production of crops;
  - (b) Production of milk for sale; or

- (c) Raising and feeding of:
  - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
  - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Water;
  - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~and~~
- (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
  - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment,

machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities; **and**

- (32) (a) ***Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter.***
- (b) ***For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes.***

Section 41. KRS 186.040 is amended to read as follows:

- (1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used for a designated period. ***Except as provided in subsection (3) of this section***, for services performed, the owner shall pay the county clerk the sum of three dollars (\$3) for each registration, or if the registration exceeds a twelve (12) month period, the clerk shall receive a fee of four dollars (\$4).
- (2) The certificate of registration shall contain the registration number, the name and post office address of the owner, and such other information as the cabinet may require.
- (3) ***An owner who registers a vehicle under Section 42 of this Act that has a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater shall pay the county clerk twenty dollars (\$20) for each registration. The clerk shall retain the twenty dollar (\$20) fee for services performed under this subsection.***
- (4) Any person requesting a certificate of registration or renewal of registration of any type of motor vehicle shall have the opportunity to donate one dollar (\$1) to the child care assistance account. The one dollar (\$1) donation shall be added to the regular fee for vehicle registration. One donation may be made per issuance or renewal of vehicle registration. Donation to the child care assistance account shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of any vehicle registration.
- ~~(5)~~~~(4)~~ The county clerk may retain five percent (5%) of fees collected for the child care assistance account under subsection ~~(4)~~~~(3)~~ of this section. The remaining funds shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for Families and Children for the exclusive use as follows:
- (a) Funds shall be made available to the agencies that administer child care subsidy funds; and
- (b) Funds shall be used as determined by the cabinet for working families whose income exceeds the state income eligibility limits for child day care assistance.

Section 42. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents (\$11.50).
- (2) The annual registration fee for each motorcycle shall be nine dollars (\$9), and for each sidecar attachment, seven dollars (\$7).
- (3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).
- (b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	\$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	<b>669.00</b> <del>{544.00}</del>
55,001-62,000	<b>1,007.00</b> <del>{882.00}</del>
62,001-73,280	<b>1,250.00</b> <del>{1,125.00}</del>
73,281-80,000	<b>1,410.00</b> <del>{1,260.00}</del>

- (4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be

used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.

- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.
- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.
- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt

from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the

Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

- (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
  - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.
- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
- (a) The automobile shall be provided for the full-time exclusive use of the applicant; and
  - (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

Section 43. KRS 235.085 is amended to read as follows:

- (1) The county clerk shall be entitled to the same fee for the performance of the duties required in the issuance of certificates of title and registration for motorboats as is applicable to the issuance of certificates of title and registration of motor vehicles as provided by KRS 186.040(1), 186.180, 186A.130, and 186A.245.
- (2) The Transportation Cabinet shall be entitled to the same fee for the performance of duties required in the issuance of certificates of title or duplicate titles for motorboats as is applicable to the issuance of certificates of title of motor vehicles as provided in KRS 186A.130 and 186A.245. The Transportation Cabinet shall receive a two dollar (\$2) fee when a motorboat owner is issued a replacement license decal for the operation of a motorboat. The fees shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing, administering, and operating the boat titling and registration program.

Section 44. Sections 39 through 44 of this Act shall be cited as the "Trucking Economic Viability Act of 2003."

Section 45. The following KRS sections are repealed:

- 139.130 "Sales price."
- 139.370 Prohibited advertising.
- 139.400 Presumption that property sold is for use in this state.
- 139.410 Resale certificate.
- 139.420 Contents and form of certificate.
- 139.460 Presumption as to property delivered outside state to Kentucky resident -- How controverted.
- 139.490 Purchaser's liability for using property in other than exempt way after certification.
- 139.532 Applicability of sales or use tax to gross receipts from various sources.
- 139.560 Contents of monthly return.
- 139.690 Condition of refund on ground that use tax is not applicable.
- 139.750 Deliveryman's duty to collect use tax -- Exceptions.
- 154.12-219 General business license.
- 154.99-012 Penalties for Subchapter 12.

Section 46. The provisions of Sections 1 through 33 and Section 45 of this Act take effect July 1, 2004.

Section 47. The provisions of Section 39 of this Act shall take effect October 1, 2003.

Section 48. The provisions of Section 40 of this Act shall take effect January 1, 2004.

Section 49. The provisions of Sections 41 to 44 of this Act shall take effect July 1, 2003.

**Approved March 18, 2003**