

CHAPTER 188**(HB 556)**

AN ACT relating to gasoline and special fuel taxes.

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

Section 1. KRS 138.240 is amended to read as follows:

- (1) Every gasoline dealer and every special ~~fuel~~[~~fuels~~] dealer~~], or the treasurer or other proper officer or agent of every such dealer,~~ shall, by the twenty-fifth day of each month, transmit to the Department of Revenue reports on the forms the department may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. ***For tax periods beginning on or after January 1, 2007, the report shall be submitted electronically in a manner prescribed by the department.*** This report shall include the following information:
 - (a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and
 - (b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.
- (2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:
 - (a) Bulk sales of gasoline or bulk sales of special fuels sold to the United States government for use exclusively in equipment or vehicles owned or leased by the United States government;
 - (b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;
 - (c) Gasoline and special fuels lost through accountable losses;
 - (d) Gasoline and special fuel exported from this state to any other state in transport truck, tank car or cargo lots;
 - (e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:
 1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and
 2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.
 - (f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and
 - (g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

- (3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.
- (4) *Persons subject to the gasoline and special fuel tax may apply for a waiver from the requirement in subsection (1) of this section that the report be submitted electronically for tax periods beginning on or after January 1, 2007, by submitting a request on a form prescribed by the department. The request shall indicate the lack of one (1) or more of the following:*
 - (a) *Compatible computer hardware;*
 - (b) *Internet access; or*
 - (c) *Other technological capabilities determined relevant by the department.*
- (5) *If a person qualifies for a waiver under subsection (4) of this section, paper reports including the information required by subsections (1) through (3) of this section shall be submitted.*

Section 2. KRS 138.280 is amended to read as follows:

- (1)
 - (a) *For tax periods beginning prior to January 1, 2007, the reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270; except that the department may waive this requirement and accept the dealer's check or allow for remittance of the tax owed to the department by electronic fund transfer where the dealer is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.210 to 138.340.*
 - (b) *For tax periods beginning on or after January 1, 2007, the payments computed as provided in KRS 138.270 shall be transmitted electronically in a manner prescribed by the department.*
- (2) By virtue of the allowance provided by KRS 138.270 to dealers for collecting and remitting the tax, every dealer is a trust officer of the state.
- (3) *Persons subject to the gasoline and special fuels tax may apply for a waiver from the requirements of paragraph (b) of subsection (1) of this section by submitting a request on a form prescribed by the department. The request shall indicate the lack of one (1) or more of the following:*
 - (a) *Compatible computer hardware;*
 - (b) *Internet access; or*
 - (c) *Other technological capabilities determined relevant by the department.*
- (4) *If a person qualifies for a waiver of the electronic payment requirements established by paragraph (b) of subsection (1) of this section, the reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270.*
- (5) The department shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes due for the preceding calendar month and computed as provided by KRS 138.270.

Approved April 21, 2006.