

CHAPTER 103**(HB 21)**

AN ACT relating to motor vehicles.

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

➔Section 1. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, **but shall include low-speed vehicles as defined in this section.**
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
- (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
- (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
- (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human

and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
- (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, *including* ~~but excluding tractors and~~ vehicles on which the operator and passengers ride in an enclosed cab. ***Motorcycle shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor, or ~~and excluding~~ a moped as defined in this section.***
- (16) ***"Low-speed vehicle" means a motor vehicle that:***
- (a) ***Is self-propelled using an electric motor, combustion driven motor, or a combination thereof;***
 - (b) ***Is four (4) wheeled; and***
 - (c) ***Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.***
- (17) ***"Alternative-speed motorcycle" means a motorcycle that:***
- (a) ***Is self-propelled using an electric motor, combustion driven motor, or a combination thereof;***
 - (b) ***Is three (3) wheeled;***
 - (c) ***Has a fully enclosed cab and includes at least one door for entry; and***
 - (d) ***Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "low-speed vehicle" shall have the same meaning as in Section 1 of this Act.*
- (2) *A person may operate a low-speed vehicle on a highway if:*
 - (a) *The vehicle meets the federal motor vehicle safety standards for low-speed vehicles set forth in 49 CFR sec. 571.500;*
 - (b) *The vehicle displays a seventeen (17) character vehicle identification number that meets the requirements set forth in 49 CFR 565;*
 - (c) *The posted speed limit of the highway is thirty-five (35) miles per hour or less;*
 - (d) *The operator of the low-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;*
 - (e) *The operator has a valid operator's license in his or her possession; and*
 - (f) *The low-speed vehicle has not been modified to increase its speed above its original standard manufactured limit.*
- (3) *A low-speed vehicle operating on a highway shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.*
- (4) *A low-speed vehicle operating on a highway is considered to be a motor vehicle as defined in Section 1 of this Act and shall be titled in accordance with KRS Chapter 186A and registered as a motor vehicle in accordance with KRS 186.050(3)(a).*
- (5) *An operator of a low-speed vehicle operating on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "alternative-speed motorcycle" shall have the same meaning as in Section 1 of this Act.*
- (2) *A person may operate an alternative-speed motorcycle on a highway if:*
 - (a) *The motorcycle bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating;*
 - (b) *The motorcycle is equipped with:*
 1. *Headlights, front and rear turn signal lights, taillights, and break lights;*
 2. *Three (3) red reflectors, two (2) of which must be placed on each side as far to the rear of the vehicle as practicable, and one (1) of which must be placed on the rear of the vehicle;*
 3. *An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;*
 4. *A parking brake;*
 5. *A windshield that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.205;*
 6. *A seatbelt assembly that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.209; and*
 7. *A roll bar, roll cage, or crush-proof body design;*
 - (c) *The posted speed limit of the highway is thirty-five (35) miles per hour or less;*
 - (d) *The operator of the alternative-speed vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour unless the intersection is equipped with an electronic traffic signal;*

- (e) *The operator has a valid motorcycle operator's license in his or her possession; and*
 - (f) *The alternative-speed motorcycle has not been modified to increase its speed above its original standard manufactured limit.*
- (3) *An alternative-speed motorcycle operating on a highway shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.*
 - (4) *An alternative-speed motorcycle operating on a highway is considered to be a motorcycle as defined in Section 1 of this Act and shall be titled in accordance with KRS Chapter 186A and registered as a motorcycle in accordance with KRS 186.050(2).*
 - (5) *An operator of an alternative-speed motorcycle shall be exempt from the protective headgear requirements of KRS 189.285.*
 - (6) *Except as provided in this section, an operator of an alternative-speed motorcycle operating on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.*

➔Section 4. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.990:

- (1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:
 - (a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers;
 - (b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers;
 - (c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers;
 - (d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes; and
 - (e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler;
- (2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto;
- (3) The term "motor vehicle dealer" shall not include:
 - (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;
 - (b) Public officers while performing their official duties; or

- (c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees;
- (4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles;
- (5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles;
- (6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties;
- (7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers;
- (8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation;
- (9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles, *including alternative-speed motorcycles as defined in Section 1 of this Act*. Motorcycles shall not include mopeds as defined in this section;
- (10) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction;
- (11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction;
- (12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways that is self-propelled *including low-speed motor vehicles as defined in Section 1 of this Act*, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products;
- (13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer;
- (14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (15) "Commission" means the Motor Vehicle Commission;
- (16) "Commissioner" means the commissioner of the department;
- (17) "Department" means the Department of Vehicle Regulation;
- (18) "Licensor" means the commission;
- (19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances;

- (20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity;
- (21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product;
- (22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b);
- (23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer;
- (24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact;
- (25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise;
- (26) "Automotive mobility dealer" means any motor vehicle dealer who:
 - (a) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;
 - (b) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf of another, as his or her primary business or incidental thereto; or
 - (c) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by an aging or disabled person;
- (27) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by an aging or disabled person; and
- (28) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person.

Signed by the Governor March 27, 2009.