

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2022 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of **HB 659/GA**

From page 1, line 3, through page 6, line 8, delete Section 1 in its entirety and insert in lieu thereof:

" ➔ Section 1. KRS 281.010 is amended to read as follows:

As used in this chapter:

- (1) "Automobile club" means a person that, for consideration, promises to assist its members or subscribers in matters relating to the assumption of or reimbursement of the expense or a portion thereof for towing of a motor vehicle; emergency road service; matters relating to the operation, use, and maintenance of a motor vehicle; and the supplying of services which includes, augments, or is incidental to theft or reward services, discount services, arrest bond services, lock and key services, trip interruption services, and legal fee reimbursement services in defense of traffic-related offenses;
- (2) "Automobile utility trailer" means any trailer or semitrailer designed for use with and towed behind a passenger motor vehicle;
- (3) "Automobile utility trailer certificate" means a certificate authorizing a person to engage in the business of automobile utility trailer lessor;
- (4) "Automobile utility trailer lessor" means any person operating under an automobile utility trailer certificate who is engaged in the business of leasing or renting automobile utility trailers, but shall not include the agents of such persons;

Amendment No. SFA

Rep. Sen. Jimmy Higdon

Committee Amendment \_\_\_\_\_

Signed: \_\_\_\_\_

Floor Amendment \_\_\_\_\_

LRC Drafter: \_\_\_\_\_

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

Doc. ID: XXXX

**Not for Filing**

- (5) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (6) "Bus" means a motor vehicle operating under a bus certificate transporting passengers for hire between points over regular routes;
- (7) "Bus certificate" means a certificate granting authority for the operation of one (1) or more buses;
- (8) "Cabinet" means the Kentucky Transportation Cabinet;
- (9) "Certificate" means a certificate of compliance issued under this chapter to motor carriers;
- (10) "Charter bus" means a motor vehicle operating under a charter bus certificate providing for hire intrastate transportation of a group of persons who, pursuant to a common purpose under a single contract at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;
- (11) "Charter bus certificate" means a certificate granting authority for the operation of one (1) or more charter buses;
- (12) "Commissioner" means the commissioner of the Department of Vehicle Regulation;
- (13) "CTAC" means the Coordinated Transportation Advisory Committee created in KRS 281.870;
- (14) "Department" means the Department of Vehicle Regulation;
- (15) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (16) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting passengers

# Unofficial Document

- including the general public who require transportation in disabled persons vehicles;
- (17) "Disabled persons vehicle" means a motor vehicle operating under a disabled persons vehicle certificate especially equipped for the transportation of passengers with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed with not more than fifteen (15) regular seats. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;
- (18) "Disabled persons vehicle certificate" means a certificate granting authority for the operation of one (1) or more disabled persons vehicles transporting passengers for hire;
- (19) "Driveaway" means the transporting and delivering of motor vehicles, except semitrailers and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for hire. "Driveaway" does not include the transportation of such vehicles by the full mount method on trailers or semitrailers;
- (20) "Driveaway certificate" means a certificate granting authority for the operation of one (1) or more motor carrier vehicles operating as a driveaway;
- (21) "Driver" means the person physically operating the motor vehicle;
- (22) "Flatbed/rollback service" means a form of towing service which involves moving vehicles by loading them onto a flatbed platform;
- (23) "Highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;
- (24) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;
- (25) "Household goods carrier" has the same meaning as "household goods motor carrier" in 49 C.F.R. sec. 375.103;
- (26) "Household goods certificate" means a certificate granting authority for the operation of

# Unofficial Document

- one (1) or more household goods vehicles;
- (27) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
- (a) Nonemergency medical transportation under KRS Chapter 205;
  - (b) Mental health, intellectual disabilities, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
  - (c) Work programs for public assistance recipients under KRS Chapter 205;
  - (d) Adult services under KRS Chapter 205, 209, 216, or 273;
  - (e) Vocational rehabilitation under KRS Chapter 151B or 157; or
  - (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (28) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (29) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (30) "Limousine" means a motor vehicle operating under a limousine certificate that is designed or constructed with not more than fifteen (15) regular seats;
- (31) "Limousine certificate" means a certificate granting authority for the operation of one (1) or more limousines transporting passengers for hire;
- (32) "Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers;
- (33) "Motor carrier" means any person in either a private or for-hire capacity who owns, controls, operates, manages, or leases, except persons leasing to authorized motor carriers, any motor vehicle for the transportation of passengers or property upon any highway, and any person who engages in the business of automobile utility trailer lessor, vehicle towing, driveaway, or U-Drive-It;
- (34) "Motor carrier vehicle" means a motor vehicle used by a motor carrier to transport

# Unofficial Document

passengers or property;

(35) "Motor carrier vehicle license" means a license issued by the department for a motor carrier vehicle authorized to operate under a certificate;

(36) "Motor carrier license plate" means a license plate issued by the department to a motor carrier authorized to operate under a certificate other than a household goods, property, TNC, or U-Drive-It certificate;

(37) "Motor vehicle" means any motor-propelled vehicle used for the transportation of passengers or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles;

(38) "Passenger" means an individual or group of people;

(39) **"Peer-to-peer car sharing":**

**(a) Means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and**

**(b) Does not:**

**1. Include the operation of a U-Drive-It certificate as defined in subsection (68)(a) of this section; or**

**2. Involve the sale or provision of rental vehicle insurance as defined in KRS 304.9-020;**

**(40) "Peer-to-peer car sharing company" means a person that operates a peer-to-peer car sharing program;**

**(41) "Peer-to-peer car sharing program":**

**(a) Means a business platform that connects shared vehicle owners with shared vehicle drivers to enable the sharing of motor vehicles for financial consideration; and**

**(b) Does not include a:**

**1. Motor vehicle renting company as defined in KRS 281.687;**

**2. Rental vehicle agent as defined in KRS 304.9-020; or**

**3. Service provider that is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;**

**(42)** "Permit" means a temporary permit of compliance issued under this chapter for a specified period not to exceed ten (10) days, and for a specific vehicle, to any motor carrier, including one who is a nonresident of the Commonwealth, who operates a motor vehicle and is not entitled to an exemption from the payment of fees imposed under KRS 186.050 because of the terms of a reciprocal agreement between the Commonwealth and the state in which the vehicle is licensed;

**(43)**~~(40)~~ "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, assignee, or personal representative thereof;

**(44)**~~(41)~~ "Platoon" means a group of two (2) individual commercial motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would ordinarily be allowed under KRS 189.340(8)(b);

**(45)**~~(42)~~ "Prearranged ride" means the period of time that begins when a transportation network company driver accepts a requested ride through a digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends when the transportation network company services end;

**(46)**~~(43)~~ "Pre-trip acceptance liability policy" means the transportation network company liability insurance coverage for incidents involving the driver for a period of time when a driver is logged into a transportation network company's digital network or mobile application but is not engaged in a prearranged ride;

**(47)**~~(44)~~ "Property" means general or specific commodities, including hazardous and

# Unofficial Document

nonhazardous materials;

~~(48)~~~~(45)~~ "Property certificate" means a certificate granting authority for the transportation of property, other than household goods, not exempt under KRS 281.605;

~~(49)~~~~(46)~~ "Recovery":

(a) Means a form of towing service which involves moving vehicles by the use of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile ambulance, tow dolly, or any other similar device as requested by a state or local law enforcement agency; and

(b) Includes:

1. Relocating a vehicle or cargo from a place where towing is not possible to a place where towing is possible; and
2. The cleanup of debris or cargo, and returning an area to pre-event condition;

~~(50)~~~~(47)~~ "Regular route" means the scheduled transportation of passengers between designated points over designated routes under time schedules that provide a regularity of services;

~~(51)~~~~(48)~~ "Regular seat" means a seat ordinarily and customarily used by one (1) passenger and, in determining such seating capacity, the manufacturer's rating may be considered;

~~(52)~~~~(49)~~ "Storage facility" means any lot, facility, or other property used to store motor vehicles that have been removed from another location by a tow truck;

~~(53)~~~~(50)~~ "Street hail" means a request for service made by a potential passenger using hand gestures or verbal statement;

~~(54)~~~~(51)~~ "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority;

~~(55)~~~~(52)~~ "Tariff" means the listing of compensation received by a motor carrier for household goods that includes the manner in which and the amount of fares an authorized motor

# Unofficial Document

carrier may charge;

~~(56)~~~~(53)~~ "Taxicab" means a motor vehicle operating under a taxicab certificate that is designed or constructed with not more than eight (8) regular seats and may be equipped with a taximeter;

~~(57)~~~~(54)~~ "Taxicab certificate" means a certificate granting authority for the operation of one (1) or more taxicabs transporting passengers for hire;

~~(58)~~~~(55)~~ "Taximeter" means an instrument or device approved by the department that automatically calculates and plainly indicates the charge to a passenger for hire who is being charged on the basis of mileage;

~~(59)~~~~(56)~~ "Tow truck" means a motor vehicle equipped to provide any form of towing service, including recovery service or flatbed/rollback service;

~~(60)~~~~(57)~~ "Tow truck operator" means an individual who operates a tow truck as an employee or agent of a towing company;

~~(61)~~~~(58)~~ "Towing" means:

- (a) Emergency towing, which is the towing of a motor vehicle, with or without the owner's consent, because of:
  - 1. A motor vehicle accident on a public highway;
  - 2. An incident related to an emergency; or
  - 3. An incident that necessitates the removal of the motor vehicle from a location for public safety reasons;
- (b) Private property towing, which is the towing of a motor vehicle, without the owner's consent, from private property:
  - 1. On which the motor vehicle was illegally parked; or
  - 2. Because of an exigent circumstance necessitating its removal to another location; and



# Unofficial Document

- (c) Seizure towing, which is the towing of a motor vehicle for law enforcement purposes involving the:
1. Maintenance of the chain of custody of evidence;
  2. Forfeiture of assets; or
  3. Delinquency of highway fuel tax, weight distance tax, or any other taxes and fees administered by the Transportation Cabinet;

~~(62)~~~~(59)~~ "Towing company":

- (a) Means a service or business operating as a motor carrier that:
1. Tows or otherwise moves motor vehicles by means of a tow truck; or
  2. Owns or operates a storage lot;
- (b) Includes a tow truck operator acting on behalf of a towing company when appropriate in the context; and
- (c) Does not include an automobile club, car dealership, insurance company, repossession company, lienholders and entities hired by lienholders for the purpose of repossession, local government, or any other entity that contracts with a towing company;

~~(63)~~~~(60)~~ "Transportation network company" or "TNC" means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services;

~~(64)~~~~(61)~~ "Transportation network company certificate" or "TNC certificate" means a certificate granting the authority for the operation of one (1) or more transportation network company vehicles transporting passengers for hire;

~~(65)~~~~(62)~~ "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual, or a motor vehicle for which the driver is an insured driver and has the permission of the owner or lessee of the

motor vehicle, and used to provide transportation network company services;

~~(66)~~~~(63)~~ "Transportation network company service" or "TNC service" means a prearranged passenger transportation service offered or provided through the use of a transportation network company mobile application or digital network to connect potential passengers with transportation network company drivers;

~~(67)~~~~(64)~~ "Transportation network company vehicle" or "TNC vehicle" means a privately owned or leased motor vehicle, designed or constructed with not more than eight (8) regular seats, operating under a transportation network company certificate;

~~(68)~~~~(65)~~ "U-Drive-It" means:

(a) Any person operating under a U-Drive-It certificate ~~that~~~~who~~ leases or rents a motor vehicle for consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee; or

(b) A peer-to-peer car sharing company operating under a U-Drive-It certificate; and

~~(69)~~~~(66)~~ "U-Drive-It certificate" means a certificate granting authority for the operation of one (1) or more U-Drive-Its.

➔Section 2. KRS 138.463 is amended to read as follows:

(1) As used in this section:

(a) "Cabinet" means the Kentucky Transportation Cabinet;

(b) "Gross rental charge" has the same meaning as in KRS 138.462;

(c) "Peer-to-peer car sharing" has the same meaning as in Section 1 of this Act;

(d) "Peer-to-peer car sharing company" has the same meaning as in Section 1 of this Act;

(e) "Peer-to-peer car sharing program" has the same meaning as in Section 1 of this Act;

# Unofficial Document

**(f) "Shared vehicle":**

**1. Means a motor vehicle:**

**a. That is available for car sharing through a peer-to-peer car sharing program; and**

**b. For which proof of the motor vehicle usage tax paid to the Commonwealth has been provided to the peer-to-peer car sharing program prior to its acceptance of the vehicle into the program; and**

**2. Does not include a motor vehicle leased or rented by a person for which the motor vehicle usage tax is paid under a U-Drive-It certificate by a motor vehicle renting company as defined in Section 3 of this Act;**

**(g) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a peer-to-peer car sharing program agreement; and**

**(h) "Shared vehicle owner":**

**1. Means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers, through a peer-to-peer car sharing program; and**

**2. Does not include:**

**a. A motor vehicle renting company as defined in Section 3 of this Act; or**

**b. A rental vehicle agent as defined in KRS 304.9-020.**

**(2) (a) A motor vehicle renting company as defined in Section 3 of this Act that is a holder of a certificate as required under KRS 281.630 to operate as a U-Drive-It as defined in KRS 281.010(68)(a):**

**L.1(a)} May pay the motor vehicle usage tax imposed under KRS 138.460 upon the retail price of the motor vehicle; or**

# Unofficial Document

- ~~2.(b)~~ May pay the motor vehicle usage tax of six percent (6%) upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the certificate, subject to the provisions of this section and KRS 138.470.
- ~~(b)(2)~~ The provisions of KRS 138.462 and this section shall apply to all rental and leasehold contracts entered into after March 9, 1990.
- ~~(c)(3)~~ A holder of a certificate shall pay the **motor vehicle** usage tax as provided in KRS 138.460 unless he shows to the satisfaction of the cabinet that he is regularly engaged in the renting or leasing of motor vehicles to retail customers as a part of an established business. The issuance of a U-Drive-It certificate under the provisions of KRS Chapter 281 shall create a rebuttable presumption that the holder of a certificate is regularly engaged in renting or leasing. Persons first engaging in the renting or leasing of motor vehicles to retail customers shall, in addition to obtaining a certificate required under KRS 281.630, demonstrate to the satisfaction of the cabinet that they are prepared to qualify under the standards set forth in this subsection.
- ~~(d)(4)~~ In the event the holder of such certificate qualifies under **paragraph (c) of this** subsection~~[(3) of this section]~~ and elects to pay the motor vehicle usage tax by the alternate method as provided in **paragraph (a) of this** subsection ~~[(1)(b) of this section]~~, or is required by subsection ~~(6)(8)~~ of this section to pay by the alternate method, he shall pay the fee imposed by KRS 281.631(3) and in addition shall pay the monthly tax authorized by **paragraph (a) of this** subsection~~[(1) of this section]~~.
- ~~(e)(5)~~ The **motor vehicle usage** tax authorized by **paragraph (a) of this** subsection ~~[(1) of this section]~~ shall be the direct obligation of the holder of the certificate but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the cabinet each month on forms and

pursuant to regulations promulgated by the cabinet. *The tax shall be deposited into the road fund.*

*(3) (a) A peer-to-peer car sharing company that is a holder of a certificate as required under KRS 281.630 to operate as a U-Drive-It as defined in subsection (68)(b) of Section 1 of this Act shall pay a U-Drive-It tax. The tax shall be equal to six percent (6%) of the gross rental charges paid by a shared vehicle driver renting a shared vehicle from a peer-to-peer car rental company, subject to the provisions of this section and KRS 138.470.*

*(b) The U-Drive-It tax shall be the direct obligation of the holder of the certificate, but it may be charged to and collected from the shared vehicle driver in addition to the rental charges. The tax due shall be remitted to the cabinet each month on forms and pursuant to regulations promulgated by the cabinet.*

*(c) The peer-to-peer car sharing company shall remit:*

*1. One-half (1/2) of the tax collected on each transaction to the cabinet for deposit into the road fund; and*

*2. One-half (1/2) of the tax collected on each transaction:*

*a. To the shared vehicle owner to offset the amount of motor vehicle usage tax that has been previously paid until the shared vehicle owner has been fully reimbursed; and*

*b. To the cabinet for deposit into the road fund, once the shared vehicle owner has been fully reimbursed.*

~~(4)(6)~~ (a) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in paragraph (c) of this

# Unofficial Document

subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

- (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

~~(5)~~~~(7)~~ Failure of the holder of the certificate to remit the taxes applicable to the rental charges as provided *under subsections (2) and (3) of this section*~~herein~~ shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to such holder and the *motor vehicle* usage tax on each of the motor vehicles which had been registered by the holder under the certificate shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

~~(6)~~~~(8)~~ Notwithstanding the provisions of KRS 138.460 and subsection ~~(2)~~~~(4)~~ of this section, a holder of a certificate operating a fleet of rental passenger cars which has been registered pursuant to an allocation formula approved by the cabinet shall pay the *motor vehicle usage* tax by the *alternative* method provided in *subsection (2)(a)2. of* this section. The provisions of this section shall apply to all vehicles rented by the *motor vehicle renting company*~~holder~~ in this state.

~~(7)~~~~(9)~~ The *motor vehicle* usage tax reported and paid on every rental or lease of a vehicle registered pursuant *subsection (2) of* this section shall be based on the fair market rental

or lease value of the vehicle. Fair market rental or lease value shall be based on standards established by administrative regulation promulgated by the cabinet. The cabinet may remove a vehicle from the U-Drive-It program without a hearing if it is determined by the cabinet that no taxes have been remitted on that vehicle during the registration period. However, the tax reported and paid to the Transportation Cabinet shall not be less than the amount due based on the actual terms of a rental or lease agreement. The burden of proving that the consideration charged by the holder satisfies this subsection is on the holder.

➔Section 3. KRS 281.687 is amended to read as follows:

(1) As used in this section:

- (a) "Motor vehicle renting company" means a holder of a certificate as required under KRS 281.630 to operate as a U-Drive-It **as defined in subsection (68)(a) of Section 1 of this Act**, which regularly engages in renting or leasing motor vehicles to customers for less than a sixty (60) day term as part of an established business;
- (b) "Vehicle license costs" means the costs incurred by a motor vehicle renting company for licensing, titling, registration, property tax, plating, and inspecting rental motor vehicles; and
- (c) "Vehicle license cost recovery fee" means a charge on a vehicle rental transaction originating within the Commonwealth that is separately stated on the rental agreement to recover vehicle license costs.

(2) (a) If a motor vehicle renting company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the company's good-faith estimate of the motor vehicle rental company's daily charge to recover its actual total annual vehicle license costs.

(b) If the total amount of the vehicle license cost recovery fees collected by a motor vehicle renting company under this section in any calendar year exceeds the

company's actual vehicle license costs, the motor vehicle renting company shall:

1. Retain the excess amount; and
  2. Adjust the vehicle cost recovery fee for the following calendar year by a corresponding amount.
- (3) Nothing in this section shall prevent a motor vehicle renting company from including, or making adjustments during the calendar year to, separately stated surcharges, fees, or charges in the rental agreement, which may include but are not limited to vehicle license cost recovery fees, airport access fees, airport concession fees, consolidated facility charges, and all applicable taxes.

➔Section 4. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

- (1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;
- (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;
- (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;
- (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;
- (5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;



# Unofficial Document

- 
- (6) "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;
  - (7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;
  - (8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;
  - (9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional. "Total consideration given" shall not include:
    - (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;
    - (b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and
    - (c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;
  - (10) "Trade-in allowance" means:
    - (a) The value assigned by the seller of a motor vehicle to a motor vehicle registered to the purchaser and offered in trade by the purchaser as part of the total consideration given

# Unofficial Document

- by the purchaser and included in the notarized affidavit attesting to total consideration given; or
- (b) In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;
- (12) "Retail price" for:
- (a) New motor vehicles;
  - (b) Dealer demonstrator vehicles;
  - (c) Previous model year motor vehicles; and
  - (d) U-Drive-It motor vehicles ***as defined in subsection (68)(a) of Section 1 of this Act*** that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;
- means the total consideration given, as determined in KRS 138.4603;
- (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- (14) "Retail price" for used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values appear in the reference manual means the trade-in value given in the reference manual;
- (15) "Retail price" for older used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values no longer appear in the reference manual shall be one hundred dollars (\$100);
- (16) (a) "Retail price" for:
- 1. Used motor vehicles, except those vehicles for which the retail price is established in subsection (13), (14), (15), (17), or (19) of this section; and
  - 2. U-Drive-It motor vehicles ***as defined in subsection (68)(a) of Section 1 of this***

# Unofficial Document

Act that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles; means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller, as attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the trade-in value, as established by the reference manual, of the motor vehicle offered for registration and the trade-in value, as established by the reference manual, of any motor vehicle offered in trade as part of the total consideration given.

- (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
  - (c) If a notarized affidavit is not available, "retail price" shall be established by the department through the use of the reference manual;
- (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the trade-in value given in the reference manual;
- (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of subsection (12) of this section computed as of the date on which the vehicle is transferred;
- (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525, 186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;
- (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the

# Unofficial Document

dealership;

- (21) "Department" means the Department of Revenue;
- (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized; and
- (23) "Reference manual" means the automotive reference manual prescribed by the department.

➔Section 5. KRS 138.4602 is amended to read as follows:

- (1) (a) Effective for sales on or after September 1, 2009, and before July 1, 2014, of:
    - 1. New motor vehicles;
    - 2. Dealer demonstrator vehicles;
    - 3. Previous model year motor vehicles; and
    - 4. U-Drive-It motor vehicles ***as defined in subsection (68)(a) of Section 1 of this Act*** that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles; the retail price shall be determined by reducing the amount of total consideration given by the trade-in allowance of any motor vehicle traded in by the buyer. The value of the purchased motor vehicle and the amount of the trade-in allowance shall be determined as provided in subsection (2) of this section, and the availability of the trade-in allowance shall be subject to subsection (3) of this section.
  - (b) The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.
- (2) (a) The value of the purchased motor vehicle offered for registration and the value of the vehicle offered in trade shall be attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the applicable value of the purchased motor vehicle,

# Unofficial Document

as determined under the method described in paragraph (b) of this subsection, and the trade-in value of any motor vehicle offered in trade, as established by the reference manual.

(b) If a notarized affidavit is not available:

1. The retail price of the purchased motor vehicle offered for registration shall be determined as follows:

a. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

b. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

2. The value of the vehicle offered in trade shall be the trade-in value, as established by the reference manual.

(3) (a) The trade-in allowance permitted by subsection (1) of this section shall be for motor vehicles purchased between September 1, 2009, and ending June 30, 2011. The total amount of reduced tax receipts related to the trade-in allowance shall be subject to a cap of twenty-five million dollars (\$25,000,000). The trade-in allowance shall be available on a first-come, first-served basis. Implementation and application of the cap shall be determined by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.

(b) The administrative regulation shall include:

1. A method for new vehicle dealers and county clerks to determine the amount of the new vehicle credit cap at any point in time during the year; and

# Unofficial Document

2. A notification process to all county clerks when the new vehicle credit cap has been reached during the year.
- (4) When the cap established by subsection (3) of this section has been reached, or for all motor vehicles purchased after June 30, 2011, and before July 1, 2014, the retail price of all motor vehicles listed in subsection (1) of this section shall be:
  - (a) The total consideration given, including any trade-in allowance, as attested in a notarized affidavit; or
  - (b) If a notarized affidavit is not available, the retail price of the motor vehicle offered for registration shall be determined as follows:
    1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or
    2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds.

The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.

➔Section 6. KRS 138.4603 is amended to read as follows:

- (1) (a) Effective for sales on or after July 1, 2014, of:
  1. New motor vehicles;
  2. Dealer demonstrator vehicles;
  3. Previous model year motor vehicles; and
  4. U-Drive-It motor vehicles *as defined in subsection (68)(a) of Section 1 of this*

- Act that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles; the retail price shall be determined by reducing the amount of total consideration given by the trade-in allowance of any motor vehicle traded in by the buyer. The value of the purchased motor vehicle and the amount of the trade-in allowance shall be determined as provided in subsection (2) of this section.
- (b) The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.
- (2) (a) The value of the purchased motor vehicle offered for registration and the value of the vehicle offered in trade shall be attested to in a notarized affidavit.
- (b) If a notarized affidavit is not available:
1. The retail price of the purchased motor vehicle offered for registration shall be determined as follows:
    - a. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or
    - b. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and
  2. The value of the vehicle offered in trade shall be the trade-in value, as established by the reference manual.
- ➔Section 7. KRS 68.200 is amended to read as follows:
- (1) As used in this section, unless the context clearly indicates otherwise:

# Unofficial Document

- (a) "Gross rental charge" has the same meaning as in KRS 138.462;
- (b) "Motor vehicle" has the same meaning as ~~means~~ "vehicle" as defined in KRS 186.010(8)(a);
- (c) "Peer-to-peer car sharing" has the same meaning as in Section 1 of this Act;
- (d) "Peer-to-peer car sharing program" has the same meaning as in Section 1 of this Act;
- (e) "Peer-to-peer car sharing program agreement":
1. Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and
  2. Does not include rental or lease agreements entered into with persons operating under a U-Drive-It certificate as defined in subsection (68)(a) of Section 1 of this Act;
- (f) "Shared vehicle driver" has the same meaning as in Section 2 of this Act;
- (g) "Transportation network company" has the same meaning as in Section 1 of this Act;
- (h) "Transportation network company service" has the same meaning as in Section 1 of this Act; and
- (i) "U-Drive-It" has the same meaning as in subsection (68)(a) of Section 1 of this Act
- ~~(b) Retailer means "retailer" as defined in KRS 139.010; and~~
- ~~(c) Gross rental charge means "gross rental charge" as defined in KRS 138.462].~~
- (2) A county containing a designated city, consolidated local government, or urban-county government may levy a license fee on a:
- (a) U-Drive-It;
  - (b) Peer-to-peer car sharing program; and



**(c) Transportation network company.**

**(3) The license fee shall** ~~[the rental of motor vehicles which shall]~~ not exceed three percent (3%) of the gross rental charges from:

**(a)** Rental agreements for periods of thirty (30) days or less **by a:**

**1. U-Drive-It; or**

**2. Peer-to-peer car sharing program; or**

**(b) The provision of transportation network company services by a transportation network company.**

**(4)** The license fee shall **not** apply to **a U-Drive-It that** ~~[retailers who]~~ **receives less** ~~[receive more]~~ than seventy-five percent (75%) of **its** ~~[their]~~ gross revenues generated in the county from gross rental charges.

**(5)** Any license fee levied pursuant to this subsection shall be collected by **a:**

**(a) U-Drive-It** ~~[the retailer]~~ from the renters of the motor vehicles;

**(b) Peer-to-peer car sharing program from the shared vehicle driver; and**

**(c) Transportation network company from the purchaser of the transportation network company services.**

~~**(6)**~~ ~~**(3)**~~ Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:

**(a)** The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or

**(b)** The rental is part of the services provided by a funeral director for a funeral ~~;~~ ~~or~~

~~**(c)**~~ ~~The rental is exempted from the state sales and use tax pursuant to KRS 139.470].~~

~~**(7)**~~ ~~**(4)**~~ A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee

# Unofficial Document

account. The revenues may be shared among local governments pursuant to KRS 65.210 to 65.300.

~~(8)(5)~~ The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.210 to 65.300, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:

- (a) A riverport authority established by the county pursuant to KRS 65.520; or
- (b) An industrial development authority established by the county pursuant to KRS 154.50-316; or
- (c) A nonprofit corporation as defined in KRS 273.161(4) which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

- ~~(9)(6)~~ (a) As used in this section, "designated city" means a city on the registry maintained by the Department for Local Government under this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the first, second, and third class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 8. KRS 138.4631 is amended to read as follows:

- (1) If any holder of a permit under KRS 138.463~~[(2)]~~ fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its

- possession, make an estimate of the permit holder's gross rental or lease charges and issue an assessment against the permit holder based on the estimated gross rental or lease charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.
- (2) If a dealer under KRS 138.4605 fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its possession, make an estimate of the tax owed by the dealer on his loaner motor vehicles and issue an assessment against the dealer after adding a penalty of ten percent (10%) of the amount of the assessment so determined. The penalty shall be in addition to all other applicable penalties provided by law.
- (3) If any holder of a permit under KRS 138.463~~[(2)]~~ or a dealer under KRS 138.4605 fails to make and file a return required by KRS 138.4605 or 138.463 on or before the due date of the return or the due date as extended by the cabinet, or if the tax, or any installment or portion of the tax imposed by KRS 138.4605 or 138.463, is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the cabinet that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).
- (4) If the tax imposed by KRS 138.4605 or 138.463, whether assessed by the cabinet, the dealer, or the permit holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.

# Unofficial Document

---

➔Section 9. This Act takes effect January 1, 2023."