

1 AN ACT relating to agriculture exemption license numbers, and declaring an  
2 emergency.

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

4 ➔Section 1. KRS 139.481 is amended to read as follows:

- 5 (1) On and after July 1, 2022~~[January 1, 2022]~~, every person claiming an exemption  
6 provided under KRS 139.480(4) to (9), KRS 139.480(11), KRS 139.480(13) to  
7 (15), and KRS 139.480(23) to (30) shall ***provide to the seller or retailer***~~[include on~~  
8 ~~the appropriate exemption certificate and]~~ ***a valid*** agriculture exemption ***license***  
9 number issued by the department.
- 10 (2) A person is eligible to apply for an agriculture exemption ***license*** number if the  
11 person is:
- 12 (a) Regularly engaged in the occupation of tilling and cultivating the soil for the  
13 production of crops as a business;
  - 14 (b) Regularly engaged in the occupation of raising and feeding livestock of a kind  
15 the products of which ordinarily constitute food for human consumption;
  - 16 (c) Raising and feeding poultry;
  - 17 (d) Producing milk for sale; or
  - 18 (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or  
19 aquatic organisms as an agricultural pursuit.
- 20 (3) (a) On and after July 1, 2022~~[January 1, 2022]~~, persons that receive an agriculture  
21 exemption ***license*** number and choose to claim the exemptions outlined in  
22 subsection (1) of this section shall, at least one (1) time, provide the seller or  
23 retailer from whom they purchase exempt tangible personal property with one  
24 (1) of the following:
- 25 1. ~~[A fully completed exemption certificate, as prescribed by the~~  
26 ~~department, which shall contain]~~The agriculture exemption ***license***  
27 number issued by the department; or

- 1           2. A fully completed Streamlined Sales Tax Certificate of Exemption  
2           which shall include the agriculture exemption *license* number.
- 3           (b) A purchaser that has met the requirements of paragraph (a) of this subsection  
4           may issue the agriculture exemption *license* number to the seller or retailer for  
5           subsequent purchases as evidence of an exempt purchase for as long as the  
6           agriculture exemption *license* number is valid.
- 7           (c) Persons that meet the requirements of subsection (2) of this section but have  
8           not yet received an agriculture exemption *license* number from the department  
9           prior to July 1, 2022~~[January 1, 2022]~~, may issue a fully completed exemption  
10          certificate or a fully completed Streamlined Sales Tax Certificate of  
11          Exemption without the agriculture exemption *license* number prior to July 1,  
12          2022.
- 13       (4) (a) ~~[On or before April 1, 2021,]~~The department, by administrative regulation,  
14          shall develop an application form for the agriculture exemption *license*  
15          number and procedures by which the application form may also be submitted  
16          either electronically or by paper filing~~[no later than January 1, 2022]~~.
- 17       (b) The application shall include:
- 18           1. The person's name and mailing address;
- 19           2. The farm address, if different from the person's mailing address;
- 20           3. An affirmation that the person meets at least one (1) of the criteria  
21           outlined in subsection (2) of this section;
- 22           4. The person's driver's license number; and
- 23           5. One (1) of the following forms of documentation:
- 24           a. IRS Schedule F, Profit or Loss from Farming;
- 25           b. IRS Form 4835, Farm Rental Income and Expenses;
- 26           c. The farm service agency number or numbers assigned by the  
27           United States Department of Agriculture pertaining to the parcels

- 1 of land on which agriculture activity will take place; or
- 2 d. Any other type of information that may establish to the satisfaction
- 3 of the Commissioner that the applicant qualifies for the agriculture
- 4 exemption license number.
- 5 (5) (a) The agriculture exemption license number shall expire three (3) years from
- 6 the date that the license number is issued by the department or when the
- 7 person ceases to engage in the agriculture activity for which the agriculture
- 8 exemption license number was granted, whichever comes first.
- 9 (b) The person may apply for a renewal of the agriculture exemption license
- 10 number prior to the expiration date if the person continues to meet the
- 11 requirements of subsection (2) of this section and provides documentation
- 12 required by subsection (4)(b)5. of this section. The department shall, by
- 13 administrative regulation, prescribe the electronic process for renewing an
- 14 agriculture exemption license number.
- 15 (6) (a) On or before July 1, 2022, the department shall develop and provide an online
- 16 searchable database on the department's Web site that the seller or retailer may
- 17 use to confirm the agriculture exemption license number if the purchaser
- 18 cannot produce documentation of the agriculture exemption license number at
- 19 the time of sale.
- 20 (b) To search the database, the seller or retailer shall provide the name of the
- 21 person assigned the agriculture exemption license number and one (1) of the
- 22 following:
- 23 1. The agriculture exemption license number;
- 24 2. The agriculture exemption license number expiration date;
- 25 3. The person's driver's license number;
- 26 4. The farm service agency parcel number; or
- 27 5. Any other unique identifier that may be accepted by the department.

1 (c) The seller or retailer shall be relieved of the liability for collecting and  
 2 remitting the sales and use tax if the seller or retailer meets the requirements  
 3 of KRS 139.260 and 139.270.

4 ➔Section 2. KRS 139.260 is amended to read as follows:

5 For the purpose of the proper administration of this chapter and to prevent evasion of the  
 6 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that  
 7 all gross receipts and all tangible personal property, digital property, and services sold by  
 8 any person for delivery or access in this state are subject to the tax until the contrary is  
 9 established. The burden of proving the contrary is upon the person who makes the sale of:

10 (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal  
 11 property or digital property unless the person takes from the purchaser a  
 12 certificate to the effect that the property is either:

13 1.[(a)] Purchased for resale according to the provisions of KRS 139.270;

14 2.[(b)] Purchased through a fully completed certificate of exemption or  
 15 fully completed Streamlined Sales and Use Tax Agreement Certificate  
 16 of Exemption in accordance with KRS 139.270; or

17 3.[(c)] Purchased according to administrative regulations promulgated by  
 18 the department governing a direct pay authorization;

19 (b) Tangible personal property to a purchaser claiming an agriculture  
 20 exemption under KRS 139.480(4) to (9), KRS 139.480(11), KRS 139.480(13)  
 21 to (15), or KRS 139.480(23) to (30) unless the person obtains from the  
 22 purchaser an agriculture exemption license number or a fully completed  
 23 Streamlined Sales and Use Tax Agreement Certificate of Exemption that  
 24 contains an agriculture exemption license number in accordance with  
 25 Section 3 of this Act.

26 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the  
 27 purchaser a certificate to the effect that the service is purchased through a fully

1 completed certificate of exemption or fully completed Streamlined Sales and Use  
2 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

3 (3) A service included in KRS 139.200(2)(g) to (q) unless the person takes from the  
4 purchaser a certificate to the effect that the service is:

5 (a) Purchased for resale according to KRS 139.270;

6 (b) Purchased through a fully completed certificate of exemption or fully  
7 completed Streamlined Sales and Use Tax Agreement Certificate of  
8 Exemption in accordance with KRS 139.270; or

9 (c) Purchased according to administrative regulations promulgated by the  
10 department governing a direct pay authorization.

11 ➔Section 3. KRS 139.270 is amended to read as follows:

12 (1) The resale certificate, certificate of exemption, agriculture exemption license  
13 number, or Streamlined Sales and Use Tax Agreement Certificate of Exemption  
14 relieves the retailer or seller from the burden of proof if the retailer or seller:

15 (a) Within ninety (90) days after the date of sale:

16 1. Obtains a fully completed resale certificate, certificate of exemption, or  
17 Streamlined Sales and Use Tax Agreement Certificate of Exemption;  
18 ~~or~~

19 2. Obtains an agriculture exemption license number from the purchaser  
20 or a fully completed Streamlined Sales and Use Tax Agreement  
21 Certificate of Exemption that contains an agriculture exemption  
22 license number; or

23 3. Captures the relevant data elements that correspond to the information  
24 that the purchaser would otherwise provide to the retailer or seller on the  
25 Streamlined Sales and Use Tax Agreement Certificate of Exemption;  
26 and

27 (b) Maintains a file of the certificate, agriculture exemption license number, or

1                    *Streamlined Sales and Use Tax Agreement Certificate of Exemption*

2                    obtained or relevant data elements captured in accordance with KRS 139.720.

3                    (2) The relief from liability provided to the retailer or the seller in this section does not  
4                    apply to a retailer or seller who:

5                    (a) Fraudulently fails to collect the tax;

6                    (b) Solicits purchasers to participate in the unlawful claiming of an exemption; or

7                    (c) Accepts an exemption certificate when the purchaser claims an entity-based  
8                    exemption when:

9                    1. The product sought to be covered by the exemption certificate is actually  
10                    received by the purchaser at a location operated by the retailer or seller;  
11                    and

12                    2. The state in which that location resides provides an exemption  
13                    certificate that clearly and affirmatively indicates that the claimed  
14                    exemption is not available in that state.

15                    For purposes of this paragraph, "entity-based exemption" means an exemption  
16                    based on who purchases the product or who sells the product. An exemption  
17                    available to all individuals shall not be considered an entity-based exemption.

18                    (3) (a) If the department requests that the seller or retailer substantiate that the sale  
19                    was a sale for resale or an exempt sale and the retailer or seller has not  
20                    complied with subsection (1) of this section, the seller or retailer shall be  
21                    relieved of any liability for the tax on the transaction if the seller or retailer,  
22                    within one hundred twenty (120) days of the department's request:

23                    1. Obtains a fully completed resale certificate, exemption certificate,  
24                    *agriculture exemption license number*, or Streamlined Sales and Use  
25                    Tax Agreement Certificate of Exemption from the purchaser for an  
26                    exemption that:

27                    a. Was available under this chapter on the date the transaction

- 1                                occurred;
- 2                                b.    Could be applicable to the item being purchased; and
- 3                                c.    Is reasonable for the purchaser's type of business; or
- 4                                2.    Obtains other information establishing that the transaction was not
- 5    subject to the tax.

6                                (b) Notwithstanding paragraph (a) of this subsection, if the department discovers  
 7    through the audit process that the seller or retailer had knowledge or had  
 8    reason to know at the time the information was provided that the information  
 9    relating to the exemption claimed was materially false, or the seller or retailer  
 10     otherwise knowingly participated in activity intended to purposefully evade  
 11     the tax that is properly due on the transaction, the seller or retailer shall not be  
 12     relieved of the tax on the transaction. The department shall bear the burden of  
 13     proof that the seller or retailer had knowledge or had reason to know at the  
 14     time the information was provided that the information was materially false.

15                                (4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may  
 16     still offer additional documentation that is acceptable by the department that the  
 17     transaction is not subject to tax and to relieve the seller or retailer from the tax  
 18     liability.

19                                (5) If the department later finds that the retailer or seller complied with subsections (1),  
 20     (3), and (4) of this section, but that the purchaser used the property or service in a  
 21     manner that would not have qualified for resale status or the purchaser issued a  
 22     certificate of exemption, an agriculture exemption license number, or a  
 23     Streamlined Sales and Use Tax Agreement Certificate of Exemption and used the  
 24     property or service in some other manner or for some other purpose, the department  
 25     shall hold the purchaser liable for the remittance of the tax originally due and may  
 26     apply penalties provided in KRS 139.990.

27                                ➔Section 4. KRS 139.735 is amended to read as follows:

1 (1) The department shall not promulgate any administrative regulation or policy, either  
2 written or unwritten, whose provisions are more stringent than KRS 139.270  
3 regarding the acceptance of resale certificates, exemption certificates, agriculture  
4 exemption license numbers, Streamlined Sales and Use Tax Agreement  
5 Certificates of Exemption, and direct pay authorizations.

6 (2) It shall be mandatory upon the department during any audit process to honor resale  
7 certificates, exemption certificates, agriculture exemption license numbers,  
8 Streamlined Sales and Use Tax Agreement Certificates of Exemption, and direct  
9 pay authorizations when executed according to KRS 139.270 and any  
10 administrative regulation promulgated by the department concerning direct pay  
11 authorizations.

12 ➔Section 5. KRS 139.990 is amended to read as follows:

13 (1) Any person who executes:

14 (a) A resale certificate for property in accordance with KRS 139.270 knowing at  
15 the time of purchase that such property is not to be resold by him in the  
16 regular course of business, for the purpose of evading the tax imposed under  
17 this chapter;

18 (b) An exemption certificate, agriculture exemption license number, or a  
19 Streamlined Sales and Use Tax Agreement Certificate of Exemption for  
20 property in accordance with KRS 139.270, knowing at the time of the  
21 purchase that he is not engaged in an occupation that would entitle him to  
22 exemption status or any person who does not intend to use the property in the  
23 prescribed manner; or

24 (c) A direct pay authorization for property not in accordance with an  
25 administrative regulation promulgated by the department governing direct pay  
26 authorizations;

27 shall be guilty of a Class B misdemeanor.



1 (2) A person who engages in business as a seller in this state without a permit or  
2 permits as required by this chapter or after a permit has been suspended, and each  
3 officer of any corporation which is so engaged in business, shall be guilty of a Class  
4 B misdemeanor.

5 (3) Any person who violates any of the provisions of KRS 139.220, 139.380, or  
6 139.700 shall be guilty of a Class B misdemeanor.

7 (4) Any person who violates any of the regulations promulgated by the department shall  
8 be guilty of a Class B misdemeanor.

9 (5) Any person, business, or motion picture production company falsifying expenditure  
10 reports, applications, or any other statements made in securing the tax credit  
11 afforded by KRS 139.538 shall be guilty of a Class D felony. Such motion picture  
12 production companies shall be denied any tax credit to which they would otherwise  
13 be entitled, and shall be prohibited from applying for any future credit afforded by  
14 KRS 139.538.

15 ➔Section 6. Whereas, the Department of Revenue is currently processing  
16 applications for, and implementing the certification of, agriculture exemption license  
17 numbers, an emergency is declared to exist, and this Act takes effect upon its passage and  
18 approval by the Governor or upon its otherwise becoming a law.