

1 AN ACT relating to the electric vehicle power tax and declaring an emergency.

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

3 ➔Section 1. KRS 138.477 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Department" means the Department of Revenue;

6 (b) "Distribute" means the delivery or transfer of electric power into the battery or
7 other energy storage device of an electric vehicle at a location in this state;

8 (c) "Electric vehicle power" means electrical energy distributed into the battery or
9 other energy storage device of an electric vehicle to be used to power the
10 vehicle;

11 (d) "Electric vehicle power dealer" means a person who owns or leases an electric
12 vehicle charging station *with a charging capacity of fifty (50) kilowatts or*
13 *more;*

14 (e) "Electric vehicle" has the same meaning as in KRS 186.010;

15 (f) "Electric vehicle charging station" means any place accessible to general
16 public vehicular traffic where electric power may be used to charge a battery
17 or other storage device of a licensed electric vehicle; and

18 (g) "Person" has the same meaning as in KRS 139.010.

19 (2) On or after January 1, 2024:

20 (a) An excise tax with an initial base rate of three cents (\$0.03) per kilowatt hour
21 is imposed on electric vehicle power distributed in this state by an electric
22 vehicle power dealer for the purpose of charging electric vehicles in this state;
23 and

24 (b) A surtax with an initial base rate of three cents (\$0.03) per kilowatt hour is
25 imposed on electric vehicle power distributed in this state by an electric
26 vehicle power dealer when the electric vehicle charging station is located on
27 state property.

- 1 (3) (a) On or before December 1, 2024, and on or before each December 1 thereafter,
2 the department shall compare the most current quarterly National Highway
3 Construction Cost Index 2.0 (NHCCI 2.0) value and determine the percentage
4 change in relation to the NHCCI 2.0 value from the same quarter for the
5 previous year.
- 6 (b) 1. The tax rate on January 1, 2025, and on each January 1 thereafter, shall
7 be adjusted by the change in the NHCCI 2.0 determined by paragraph
8 (a) of this subsection, unless the change is:
- 9 a. Greater than a five percent (5%) increase, in which case the taxes
10 shall be one hundred five percent (105%) of the tax rates in effect
11 at the close of the previous calendar year; or
- 12 b. Greater than a five percent (5%) decrease, in which case the taxes
13 shall be ninety-five percent (95%) of the tax rates in effect at the
14 close of the previous calendar year.
- 15 2. Notwithstanding subparagraph 1. of this paragraph, the tax rate shall not
16 be less than the initial base rate identified in subsection (2) of this
17 section.
- 18 (c) Adjustments to the tax rate shall be rounded to the nearest one-tenth of one
19 cent (\$0.001).
- 20 (4) At least twenty (20) days in advance of the first day of each calendar year, the
21 department shall provide notification of:
- 22 (a) The adjusted electric vehicle power tax rate for the upcoming calendar year to
23 all electric vehicle power dealers; and
- 24 (b) The adjusted electric vehicle ownership fee imposed under KRS 138.475 for
25 the upcoming calendar year to all county clerks.
- 26 (5) This tax shall be:
- 27 (a) Administered by the department; and

- 1 (b) Transferred to the road fund as defined in KRS 48.010.
- 2 (6) (a) The tax shall be added to the selling price charged by the electric vehicle
3 power dealer at the electric vehicle charging station on electric vehicle power
4 sold in this state.
- 5 (b) If there is no selling price at the charging station, the electric vehicle power
6 dealer shall be responsible for paying the tax on the electric power distributed
7 by the electric vehicle charging station, except in the case of an electric
8 vehicle charging station installed prior to July 1, 2022.
- 9 (7) (a) The tax imposed shall be paid by the electric vehicle power dealer to the State
10 Treasurer.
- 11 (b) The electric vehicle power dealer is liable for the electric vehicle power tax.
- 12 (8) Every electric vehicle power dealer shall, by the twenty-fifth day of each month,
13 transmit to the department reports, on the forms the department may prescribe, on
14 the total kilowatt hours distributed and the amount of tax collected. Payment of the
15 tax shall be due with the report.
- 16 (9) The electric vehicle power dealer shall keep and preserve an accurate record of all
17 receipts of electricity and tax together with invoices or other pertinent records and
18 papers required by the department for five (5) years.
- 19 (10) (a) No dealer or other person shall fail or refuse to make the returns and pay the
20 tax prescribed by this section, or refuse to permit the department or its
21 representatives appointed by the commissioner of the department in writing to
22 examine his or her records, papers, files, and equipment pertaining to the
23 taxable business.
- 24 (b) No person shall make an incomplete, false, or fraudulent return, or attempt to
25 do anything to avoid a full disclosure of the amount of business done or to
26 avoid the payment of the whole or any part of the tax or penalties due.
- 27 (c) No person shall fail to keep and preserve records of electric vehicle power

1 distributed to make reports as required by this section.

2 (11) Any person who violates any provision of this section shall be subject to the
3 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
4 interest rate as defined in KRS 131.183.

5 (12) (a) Notwithstanding any other provisions of this chapter to the contrary, the
6 president, vice president, secretary, treasurer, or any other person holding any
7 equivalent corporate office of any corporation subject to the provisions of this
8 chapter shall be personally and individually liable, both jointly and severally,
9 for the taxes imposed under this chapter, and neither the corporate dissolution
10 nor withdrawal of the corporation from the state nor the cessation of holding
11 any corporate office shall discharge the foregoing liability of any person.

12 (b) The personal and individual liability shall apply to each and every person
13 holding the corporate office at the time the taxes become or became due.

14 (c) No person will be personally and individually liable pursuant to this section
15 who had no authority in the management of the business or financial affairs of
16 the corporation at the time that the taxes imposed by this chapter become or
17 became due.

18 (13) (a) Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-
19 306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a
20 limited liability company, the partners of a limited liability partnership, and
21 the general partners of a limited liability limited partnership or any other
22 person holding any equivalent office of a limited liability company, limited
23 liability partnership, or limited liability limited partnership subject to the
24 provisions of this chapter shall be personally and individually liable, both
25 jointly and severally, for the taxes imposed under this chapter.

26 (b) Dissolution or withdrawal of the limited liability company, limited liability
27 partnership, or limited liability limited partnership from the state, or the

1 cessation of holding any office shall not discharge the liability of any person.

2 (c) The personal and individual liability shall apply to each and every manager of
3 a limited liability company, partner of a limited liability partnership, and
4 general partner of a limited liability limited partnership at the time the taxes
5 become or became due.

6 (d) No person shall be personally and individually liable under this subsection
7 who had no authority to collect, truthfully account for, or pay any tax imposed
8 by this chapter at the time that the taxes imposed by this chapter become or
9 became due.

10 (14) "Taxes" as used in this section shall include interest accrued at the rate provided by
11 KRS 131.183, all applicable penalties imposed under this chapter, and all applicable
12 penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

13 (15) The department may prescribe forms and promulgate administrative regulations to
14 execute and administer the provisions of this section.

15 ➔Section 2. This Act shall apply retroactively to January 1, 2024.

16 ➔Section 3. Whereas electric vehicle power dealers are currently remitting the
17 electric vehicle power tax and this Act would necessitate immediate notification to those
18 dealers, an emergency is declared to exist, and this Act takes effect upon its passage and
19 approval by the Governor or upon its otherwise becoming a law.