

1 AN ACT relating to a sales and use tax holiday and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Clothing" means all human wearing apparel suitable for general use:

7 1. "Clothing" includes but is not limited to:

8 a. Aprons, household and shop;

9 b. Athletic supporters;

10 c. Bathing suits and caps and beach capes and coats;

11 d. Belts and suspenders;

12 e. Boots, overshoes, shoes, steel-toed shoes, sandals, slippers,
13 sneakers, and shoelaces and insoles for shoes;

14 f. Coats and jackets;

15 g. Costumes;

16 h. Disposable and cloth diapers for children or adults and rubber
17 pants;

18 i. Formal wear;

19 j. Garters, garter belts, and girdles;

20 k. Gloves and mittens for general use;

21 l. Hats, caps, ear muffs, and scarves;

22 m. Hosiery, pantyhose, socks, footlets, and stockings;

23 n. Lab coats;

24 o. Neckties;

25 p. Rainwear;

26 q. Underwear;

27 r. Uniforms, athletic and nonathletic; and

1 s. *Wedding apparel.*

2 2. *"Clothing" does not include:*

3 a. *Belt buckles sold separately;*

4 b. *Costume masks sold separately;*

5 c. *Patches and emblems sold separately;*

6 d. *Sewing equipment and supplies, including but not limited to*
7 *knitting needles, patterns, pins, scissors, sewing needles, tape*
8 *measures, and thimbles; and*

9 e. *Sewing materials that become part of "clothing," including but*
10 *not limited to buttons, fabric, lace, thread, yarn, and zippers;*

11 (b) 1. *"Clothing accessories or equipment" means items worn on the person*
12 *or in conjunction with clothing and is mutually exclusive of apparel*
13 *within the definition of "clothing."*

14 2. *"Clothing accessories or equipment" includes but is not limited to:*

15 a. *Briefcases;*

16 b. *Cosmetics;*

17 c. *Hair notions, including but not limited to barrettes, hair bows,*
18 *and hair nets;*

19 d. *Handbags;*

20 e. *Jewelry;*

21 f. *Nonprescription sunglasses;*

22 g. *Umbrellas;*

23 h. *Wallets;*

24 i. *Watches; and*

25 j. *Wigs and hair pieces;*

26 (c) 1. *"Eligible property" means any item of tangible personal property*
27 *purchased by an individual exclusively for personal use or*

1 consumption which meets the following requirements:

2 a. The price of the item does not exceed three thousand dollars
3 (\$3,000); except

4 b. If clothing or clothing accessories or equipment, the price of the
5 item does not exceed two hundred dollars (\$200);

6 2. "Eligible property" does not include:

7 a. Any tangible personal property purchased for business use;

8 b. A lease or rental of tangible personal property;

9 c. Alcoholic beverages, as defined in KRS 139.485;

10 d. Cigarettes, tobacco products, or vapor products, as defined in
11 KRS 138.130;

12 e. A motor vehicle, as defined in KRS 138.655;

13 f. A motorboat, as defined in KRS 235.010;

14 g. Prepared food, as defined in KRS 139.485;

15 h. A product containing:

16 i. Marijuana, as defined in KRS 138.870, or

17 ii. Kratom or kratom extract, as defined in KRS 217.2201; or

18 i. Any service listed in KRS 139.200(2);

19 (d) "Layaway sale" means a transaction in which property is set aside for
20 future delivery to a customer who makes a deposit, agrees to pay the
21 balance of the purchase price over a period of time, and, at the end of the
22 payment period, receives the property. An order is accepted for layaway by
23 the seller when the seller removes the property from normal inventory or
24 clearly identifies the property as sold to the purchaser;

25 (e) "Purchase" has the same meaning as in KRS 139.010, excluding lease or
26 rental as defined in KRS 139.010;

27 (f) "Rain check" means the seller allows a customer to purchase an item at a

1 certain price at a later time because the particular item was out of stock;

2 (g) "Sale" has the same meaning as in KRS 139.010, excluding lease or rental
3 as defined in KRS 139.010; and

4 (h) "Sales tax holiday" means the period beginning 12:01 a.m. on the first
5 Friday in August and continuing until 12 midnight the following Sunday
6 each year.

7 (2) Notwithstanding any other provision of this chapter to the contrary, the taxes
8 imposed by this chapter shall not apply to the sale or purchase of eligible property
9 during a sales tax holiday.

10 (3) The exemption provided in this section shall be subject to the following
11 provisions:

12 (a) The sale of eligible property shall qualify for exemption if:

13 1. The property is both delivered to and paid for by the purchaser during
14 the sales tax holiday exemption period; or

15 2. The purchaser orders and pays for the eligible property, and the seller
16 accepts the order, during the sales tax holiday for immediate
17 shipment, even if delivery is made after the sales tax holiday. The
18 seller accepts the order when the seller has taken action to fill the
19 order for immediate shipment. Actions to fill an order include
20 placement of an "in date" stamp on a mail order or assignment of an
21 "order number" to an order submitted by telephone or electronically.
22 An order is for immediate shipment when the customer does not
23 request delayed shipment. An order is for immediate shipment,
24 notwithstanding that the shipment may be delayed because of a
25 backlog of orders or because stock is currently unavailable to, or on
26 back order by, the seller;

27 (b) A sale of eligible property under a layaway sale qualifies for exemption

1 under this section if:

2 1. Final payment on a layaway order is made by, and the eligible
3 property is given to, the purchaser during the sales tax holiday; or

4 2. The purchaser selects the eligible property, and the retailer accepts the
5 order for the property, during the sales tax holiday, for immediate
6 delivery upon full payment, even if delivery is made after the sales tax
7 holiday;

8 (c) 1. A discount by the seller reduces the sales price of the property and the
9 discounted sales price determines whether the sales price is within the
10 sales tax holiday price threshold.

11 2. A coupon that reduces the sales price is treated as a discount if the
12 seller is not reimbursed for the coupon amount by a person other than
13 the purchaser.

14 3. If a discount applies to the total amount paid by a purchaser rather
15 than to the sales price of a particular item and the purchaser has
16 purchased both eligible property and taxable property, the seller shall
17 allocate the discount based on the total sales price of the taxable
18 property compared to the total sales price of all property sold in that
19 same transaction;

20 (d) Articles that are normally sold as a single unit shall continue to be sold in
21 that manner. Articles that are normally sold as a single unit, such as a pair
22 of shoes, shall not be priced and sold separately in order to obtain the
23 exemption;

24 (e) Eligible property purchased with the use of a rain check during the sales tax
25 holiday shall qualify for the exemption regardless of when the rain check
26 was issued. Issuance of a rain check during the sales tax holiday shall not
27 qualify the eligible property for the exemption if the property is actually

1 purchased after the sales tax holiday;

2 (f) The procedure for an exchange of eligible property shall be as follows:

3 1. If an item of eligible property is purchased during the sales tax
4 holiday but the purchaser later exchanges the item for similar eligible
5 property, even if a different size, different color, or other feature, no
6 additional tax is due, even if the exchange is made after the sales tax
7 holiday;

8 2. If an item of eligible property is purchased during the sales tax
9 holiday but the purchaser returns the item and receives credit on the
10 purchase of a different item, the appropriate sales tax is due on the
11 sale of the newly purchased item if not otherwise exempt under this
12 chapter; and

13 3. If an item of eligible property is purchased during the sales tax
14 holiday but during the sales tax holiday the purchaser returns the item
15 and receives credit on the purchase of a different item of eligible
16 property, no sales tax is due on the sale of the new item if the new item
17 is purchased during the sales tax holiday;

18 (g) Delivery charges as defined in KRS 139.010 shall be included in the sales
19 price of eligible property. For purposes of determining a sales tax holiday
20 price threshold, if all property in a shipment is eligible property and within
21 the sales tax holiday price threshold, then the seller is not required to
22 allocate the delivery charges to determine whether the price threshold is
23 exceeded, and the shipment shall be considered a sale of eligible property. If
24 a shipment includes eligible property and taxable property, including
25 eligible property with a sales price in excess of the price threshold, the seller
26 shall allocate the delivery charges by using:

27 1. A percentage based on the total sales price of the taxable property

1 compared to the total sales price of all property in the shipment; or

2 2. A percentage based on the total weight of the taxable property
3 compared to the total weight of all property in the shipment. The seller
4 shall tax the percentage of the delivery charge allocated to the taxable
5 property, but the seller is not required to tax the percentage allocated
6 to the eligible property;

7 (h) 1. If, within sixty (60) days immediately following the sales tax holiday, a
8 purchaser returns an item to the seller that would have qualified as
9 exempt eligible property if purchased during the sales tax holiday, the
10 seller may issue a credit or refund of the tax paid only if:

11 a. The purchaser provides to the seller a receipt or invoice
12 indicating that the tax was paid; or

13 b. The seller has sufficient documentation that indicates that sales
14 tax was paid on the specific returned item.

15 2. The sixty (60) day time period is not intended to change a seller's
16 policy on the time period during which the seller will accept returns;
17 and

18 (i) If the purchaser and the seller are located in different time zones, the time
19 zone of the seller's location determines the authorized time period
20 applicable to the sales tax holiday.

21 ➔Section 2. The first sales tax holiday will occur on August 7 to August 9, 2026.

22 ➔Section 3. Whereas Kentucky is a full member state of the Streamlined Sales
23 and Use Tax Agreement, a multistate agreement providing for simplification of the
24 nation's varying sales tax laws, and whereas Kentucky is required by the agreement to
25 provide notification to both sellers and purchasers located within and without Kentucky
26 of the implementation of a sales tax holiday exemption period at least 60 days prior to the
27 first day of the calendar month in which the exemption period will begin, an emergency

- 1 is declared to exist, and this Act takes effect upon its passage and approval by the
- 2 Governor or upon its otherwise becoming a law.