

1 AN ACT relating to sales and use tax exemptions for firearm-related items.

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

3 ➔Section 1. KRS 139.010 is amended to read as follows:

4 As used in this chapter, unless the context otherwise provides:

5 (1) (a) "Admissions" means the fees paid for:

6 1. The right of entrance to a display, program, sporting event, music
7 concert, performance, play, show, movie, exhibit, fair, or other
8 entertainment or amusement event or venue; and

9 2. The privilege of using facilities or participating in an event or activity,
10 including but not limited to:

11 a. Bowling centers;

12 b. Skating rinks;

13 c. Health spas;

14 d. Swimming pools;

15 e. Tennis courts;

16 f. Weight training facilities;

17 g. Fitness and recreational sports centers; and

18 h. Golf courses, both public and private;

19 regardless of whether the fee paid is per use or in any other form,
20 including but not limited to an initiation fee, monthly fee, membership
21 fee, or combination thereof.

22 (b) "Admissions" does not include:

23 1. Any fee paid to enter or participate in a fishing tournament; or

24 2. Any fee paid for the use of a boat ramp for the purpose of allowing
25 boats to be launched into or hauled out from the water;

26 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
27 which is to attract public attention to a product, person, business, or organization, or

1 to attempt to sell, popularize, or secure financial support for a product, person,
2 business, or organization. As used in this definition, "product" means tangible
3 personal property, an item transferred electronically, or a service;

4 (3) **"Ammunition":**

5 (a) **Means the material fired from any firearm; and**

6 (b) **Includes but is not limited to:**

7 1. **Any complete round, shell, or cartridge;**

8 2. **Round, shell, or cartridge components;**

9 3. **Bullets;**

10 4. **Caps;**

11 5. **Cartridge cases;**

12 6. **Primers;**

13 7. **Projectiles; and**

14 8. **Propellant powders, including grades of black powder suitable**
15 **primarily for use in firearms;**

16 (4) **"Antique firearm":**

17 (a) **Means:**

18 1. **Any firearm manufactured in or before 1898;**

19 2. **Any replica of a firearm described in subparagraph 1. of this**
20 **paragraph if the replica:**

21 a. **Is not designed or redesigned for using rimfire or conventional**
22 **centerfire fixed ammunition; or**

23 b. **Uses rimfire or conventional centerfire fixed ammunition which**
24 **is no longer manufactured in the United States and which is not**
25 **readily available in the ordinary channels of commercial trade;**

26 **or**

27 3. **Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading**

pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition; and

(b) Does not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof;

8 (5) "Body armor" means any product offered as personal protective body covering
9 intended to protect against gunfire, regardless of whether the product is to be
10 worn alone or is sold as a complement to another product or garment;

11 **(6)** "Business" includes any activity engaged in by any person or caused to be engaged
12 in by that person with the object of gain, benefit, or advantage, either direct or
13 indirect;

14 (7)(4) "Commonwealth" means the Commonwealth of Kentucky;

15 (8)[(5)] (a) "Cosmetic surgery services" means modifications to all areas of the
16 head, neck, and body to enhance appearance through surgical and medical
17 techniques.

18 (b) "Cosmetic surgery services" does not include surgery services that are
19 medically necessary to reconstruct or correct dysfunctional areas of the face
20 and body due to birth disorders, trauma, burns, or disease;

21 (9)[(6)] "Department" means the Department of Revenue;

22 **(10)[7]** (a) "Digital audio-visual works" means a series of related images which,
23 when shown in succession, impart an impression of motion, with
24 accompanying sounds, if any.

25 (b) "Digital audio-visual works" includes movies, motion pictures, musical
26 videos, news and entertainment programs, and live events.

27 (c) "Digital audio-visual works" ~~does~~shall not include video greeting cards.

1 video games, and electronic games;

4 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
5 readings of books or other written materials, speeches, or other sound
6 recordings.

7 (c) "Digital audio works" does[shall] not include audio greeting cards sent by
8 electronic mail;

(12)[(9)] (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.

13 (b) "Digital books" ~~does[shall]~~ not include digital audio-visual works, digital
14 audio works, periodicals, magazines, newspapers, or other news or
15 information products, chat rooms, or weblogs;

16 **(13)**{(10)} (a) "Digital code" means a code which provides a purchaser with a right to
17 obtain one (1) or more types of digital property. A "digital code" may be
18 obtained by any means, including electronic mail messaging or by tangible
19 means, regardless of the code's designation as a song code, video code, or
20 book code.

21 (b) "Digital code" ~~does~~shall not include a code that represents:

24 2. A redeemable card, gift card, or gift certificate that entitles the holder to
25 select specific types of digital property:

26 **(14)**~~(11)~~ (a) "Digital property" means any of the following which is transferred
27 electronically:

- 1 1. Digital audio works;
- 2 2. Digital books;
- 3 3. Finished artwork;
- 4 4. Digital photographs;
- 5 5. Periodicals;
- 6 6. Newspapers;
- 7 7. Magazines;
- 8 8. Video greeting cards;
- 9 9. Audio greeting cards;
- 10 10. Video games;
- 11 11. Electronic games; or
- 12 12. Any digital code related to this property.

13 (b) "Digital property" ~~does[shall]~~ not include digital audio-visual works or
14 satellite radio programming;

15 (15)(12) (a) "Direct mail" means printed material delivered or distributed by United
16 States mail or other delivery service to a mass audience or to addressees on a
17 mailing list provided by the purchaser or at the direction of the purchaser
18 when the cost of the items are not billed directly to the recipient.

19 (b) "Direct mail" includes tangible personal property supplied directly or
20 indirectly by the purchaser to the direct mail retailer for inclusion in the
21 package containing the printed material.

22 (c) "Direct mail" does not include multiple items of printed material delivered to
23 a single address;

24 (16)(13) "Directly used in the manufacturing or industrial processing process" means
25 the process that commences with the movement of raw materials from storage into
26 a continuous, unbroken, integrated process and ends when the finished product is
27 packaged and ready for sale;

1 (17)~~(14)~~ (a) "Executive employee recruitment services" means services provided by
2 a person to locate potential candidates to fill open senior-level management
3 positions.

4 (b) "Executive employee recruitment services" includes but is not limited to
5 making a detailed list of client requirements, researching and identifying
6 potential candidates, performing prescreening interviews, and providing
7 contract and salary negotiations;

14 (b) "Extended warranty services" does not include the sale of a service contract
15 agreement for tangible personal property to be used by a small telephone
16 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
17 KRS 65.7621 to deliver communications services as defined in KRS 136.602
18 or broadband;

19 **(19)**~~(16)~~ (a) "Finished artwork" means final art that is used for actual reproduction
20 by photomechanical or other processes or for display purposes.

21 (b) "Finished artwork" includes:
22 1. Assemblies;
23 2. Charts;
24 3. Designs;
25 4. Drawings;
26 5. Graphs;
27 6. Illustrative materials;

- 1 7. Lettering;
- 2 8. Mechanicals;
- 3 9. Paintings; and
- 4 10. Paste-ups;

5 **(20) "Firearm"** means:

- 6 (a) *Any weapon, including a starter gun, which will or is designed to or may*
readily be converted to expel a projectile by the action of an explosive;
- 7 (b) *The frame or receiver of any weapon;*
- 8 (c) *Any firearm muffler or silencer; or*
- 9 (d) *Any part or combination of parts intended for use in its assembly or*
fabrication;

10 **(21) "Firearm muffler or silencer"** means:

- 11 (a) *Any device for silencing, muffling, or diminishing the report of a portable*
firearm; or
- 12 (b) *Any part or combination of parts intended for use in its assembly or*
fabrication;

13 **(22) "Firearm-related accessory"** means any item which:

- 14 (a) *Directly touches the firearm and is used to clean, enhance, carry, or store*
the firearm;
- 15 (b) *Directly touches the ammunition of a firearm and is used to assemble,*
enhance, fabricate, carry, or store the ammunition; or
- 16 (c) *Is primarily intended and marketed to protect a person or property from*
being harmed by a firearm or its projectile;

17 **(23) "Firearm safety course"** means an educational safety course offered to the
18 general public that:

- 19 (a) *Teaches participants the requisite basic knowledge and practical skills*
relating to the safe handling, carrying, and storage of firearms;

1 **(b) Teaches the basic applicable legal standards for self-defense under**

2 **Kentucky law and the possible civil and criminal penalties for failure to**

3 **abide by the current legal standards for self-defense under Kentucky law;**

4 **(c) Is taught by a trainer or instructor who is certified by the Kentucky**

5 **Department of Criminal Justice Training; and**

6 **(d) Is offered to members of the general public and not related to professional**

7 **development or licensure requirements;**

8 **(24) "Firearm safety device" means a device to be equipped or installed on a firearm**

9 **designed to prevent unauthorized access to the firearm or to prevent it from being**

10 **operated without first deactivating the device;**

11 **(25) "Firearm storage device" means a container or enclosure designed for the**

12 **principal purpose of safely storing a firearm and secured by a combination lock,**

13 **key lock, or lock based on biometric information which, once locked is incapable**

14 **of being opened without the combination, key, or biometric information,**

15 **respectively;**

16 **(26)[(17)] (a) "Gross receipts" and "sales price" mean the total amount or**

17 **consideration, including cash, credit, property, and services, for which**

18 **tangible personal property, digital property, or services are sold, leased, or**

19 **rented, valued in money, whether received in money or otherwise, without**

20 **any deduction for any of the following:**

21 1. The retailer's cost of the tangible personal property, digital property, or

22 services sold;

23 2. The cost of the materials used, labor or service cost, interest, losses, all

24 costs of transportation to the retailer, all taxes imposed on the retailer, or

25 any other expense of the retailer;

26 3. Charges by the retailer for any services necessary to complete the sale;

27 4. Delivery charges, which are defined as charges by the retailer for the

1 preparation and delivery to a location designated by the purchaser
2 including transportation, shipping, postage, handling, crating, and
3 packing;

11 (b) "Gross receipts" and "sales price" do[shall] include consideration received by
12 the retailer from a third party if:

1. The retailer actually receives consideration from a third party and the
2. consideration is directly related to a price reduction or discount on the
3. sale to the purchaser;
4. The retailer has an obligation to pass the price reduction or discount
5. through to the purchaser;
6. The amount of consideration attributable to the sale is fixed and
7. determinable by the retailer at the time of the sale of the item to the
8. purchaser; and
9. One (1) of the following criteria is met:
 10. a. The purchaser presents a coupon, certificate, or other
11. documentation to the retailer to claim a price reduction or discount
12. where the coupon, certificate, or documentation is authorized,
13. distributed, or granted by a third party with the understanding that
14. the third party will reimburse any seller to whom the coupon,
15. certificate, or documentation is presented;

1 (28){(19)} "Industrial processing" includes:

2 (a) Refining;

3 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

4 (c) Mining, quarrying, fabricating, and industrial assembling;

5 (d) The processing and packaging of raw materials, in-process materials, and

6 finished products; and

7 (e) The processing and packaging of farm and dairy products for sale;

8 (29){(20)} (a) "Lease or rental" means any transfer of possession or control of tangible
9 personal property for a fixed or indeterminate term for consideration. A lease
10 or rental includes[shall include] future options to:

11 1. Purchase the property; or

12 2. Extend the terms of the agreement and agreements covering trailers
13 where the amount of consideration may be increased or decreased by
14 reference to the amount realized upon sale or disposition of the property
15 as defined in 26 U.S.C. sec. 7701(h)(1).

16 (b) "Lease or rental" does[shall] not include:

17 1. A transfer of possession or control of property under a security
18 agreement or deferred payment plan that requires the transfer of title
19 upon completion of the required payments;

20 2. A transfer of possession or control of property under an agreement that
21 requires the transfer of title upon completion of the required payments
22 and payment of an option price that does not exceed the greater of one
23 hundred dollars (\$100) or one percent (1%) of the total required
24 payments; or

25 3. Providing tangible personal property and an operator for the tangible
26 personal property for a fixed or indeterminate period of time. To qualify
27 for this exclusion, the operator must be necessary for the equipment to

1 perform as designed, and the operator must do more than maintain,
2 inspect, or setup the tangible personal property.

3 (c) This definition shall apply regardless of the classification of a transaction
4 under generally accepted accounting principles, the Internal Revenue Code, or
5 other provisions of federal, state, or local law;

11 (b) "Lobbying services" includes but is not limited to the performance of
12 activities described as executive agency lobbying activities as defined in KRS
13 11A.201, activities described under the definition of lobby in KRS 6.611, and
14 any similar activities performed at the local, state, or federal levels;

15 (31)[(22)] (a) "Machinery for new and expanded industry" means machinery:

16 1. Directly used in the manufacturing or industrial processing process of:

17 a. Tangible personal property at a plant facility;

18 b. Distilled spirits or wine at a plant facility or on the premises of a
19 distiller, rectifier, winery, or small farm winery licensed under
20 KRS 243.030 that includes a retail establishment on the premises;

21 or

25 2. Which is incorporated for the first time into:

26 a. A plant facility established in this state; or

27 b. Licensed premises located in this state; and

1 3. Which does not replace machinery in the plant facility or licensed
2 premises unless that machinery purchased to replace existing machinery:
3 a. Increases the consumption of recycled materials at the plant
4 facility by not less than ten percent (10%);
5 b. Performs different functions;
6 c. Is used to manufacture a different product; or
7 d. Has a greater productive capacity, as measured in units of
8 production, than the machinery being replaced.

9 (b) "Machinery for new and expanded industry" does not include repair,
10 replacement, or spare parts of any kind, regardless of whether the purchase of
11 repair, replacement, or spare parts is required by the manufacturer or seller as
12 a condition of sale or as a condition of warranty;

13 (32)(23) "Manufacturing" means any process through which material having little or
14 no commercial value for its intended use before processing has appreciable
15 commercial value for its intended use after processing by the machinery;

16 (33)(24) "Marketplace" means any physical or electronic means through which one (1)
17 or more retailers may advertise and sell tangible personal property, digital property,
18 or services, or lease tangible personal property or digital property, such as a catalog,
19 internet website, or television or radio broadcast, regardless of whether the tangible
20 personal property, digital property, or retailer is physically present in this state;

21 (34)(25) (a) "Marketplace provider" means a person, including any affiliate of the
22 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
23 this paragraph as follows:
24 1. The person directly or indirectly:
25 a. Lists, makes available, or advertises tangible personal property,
26 digital property, or services for sale by a marketplace retailer in a
27 marketplace owned, operated, or controlled by the person;

- 1 b. Facilitates the sale of a marketplace retailer's product through a
2 marketplace by transmitting or otherwise communicating an offer
3 or acceptance of a retail sale of tangible personal property, digital
4 property, or services between a marketplace retailer and a
5 purchaser in a forum including a shop, store, booth, catalog,
6 internet site, or similar forum;
- 7 c. Owns, rents, licenses, makes available, or operates any electronic
8 or physical infrastructure or any property, process, method,
9 copyright, trademark, or patent that connects marketplace retailers
10 to purchasers for the purpose of making retail sales of tangible
11 personal property, digital property, or services;
- 12 d. Provides a marketplace for making retail sales of tangible personal
13 property, digital property, or services, or otherwise facilitates retail
14 sales of tangible personal property, digital property, or services,
15 regardless of ownership or control of the tangible personal
16 property, digital property, or services, that are the subject of the
17 retail sale;
- 18 e. Provides software development or research and development
19 activities related to any activity described in this subparagraph, if
20 the software development or research and development activities
21 are directly related to the physical or electronic marketplace
22 provided by a marketplace provider;
- 23 f. Provides or offers fulfillment or storage services for a marketplace
24 retailer;
- 25 g. Sets prices for a marketplace retailer's sale of tangible personal
26 property, digital property, or services;
- 27 h. Provides or offers customer service to a marketplace retailer or a

marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or

- i. Brands or otherwise identifies sales as those of the marketplace provider; and

2. The person directly or indirectly:

- a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;

- b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;

- c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or

- d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.

21 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
22 requirements of this subsection through the ownership, operation, or control
23 of a digital distribution service, digital distribution platform, online portal, or
24 application store:

25 (35)~~(26)~~ "Marketplace retailer" means a seller that makes retail sales through any
26 marketplace owned, operated, or controlled by a marketplace provider;

27 (36)[(27)] (a) "Occasional sale" includes:

1. A sale of tangible personal property or digital property not held or used
2 by a seller in the course of an activity for which he or she is required to
3 hold a seller's permit, provided such sale is not one (1) of a series of
4 sales sufficient in number, scope, and character to constitute an activity
5 requiring the holding of a seller's permit. In the case of the sale of the
6 entire, or a substantial portion of the nonretail assets of the seller, the
7 number of previous sales of similar assets shall be disregarded in
8 determining whether or not the current sale or sales shall qualify as an
9 occasional sale; or
10. 2. Any transfer of all or substantially all the tangible personal property or
11 digital property held or used by a person in the course of such an activity
12 when after such transfer the real or ultimate ownership of such property
13 is substantially similar to that which existed before such transfer.

14 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
15 other persons holding an interest in a corporation or other entity are regarded
16 as having the "real or ultimate ownership" of the tangible personal property or
17 digital property of such corporation or other entity;

18 (37) (28) (a) "Other direct mail" means any direct mail that is not advertising and
19 promotional direct mail, regardless of whether advertising and promotional
20 direct mail is included in the same mailing.

21 (b) "Other direct mail" includes but is not limited to:

- 22 1. Transactional direct mail that contains personal information specific to
23 the addressee, including but not limited to invoices, bills, statements of
24 account, and payroll advices;
- 25 2. Any legally required mailings, including but not limited to privacy
26 notices, tax reports, and stockholder reports; and
- 27 3. Other nonpromotional direct mail delivered to existing or former

1 shareholders, customers, employees, or agents, including but not limited
2 to newsletters and informational pieces.

3 (c) "Other direct mail" does not include the development of billing information or
4 the provision of any data processing service that is more than incidental to the
5 production of printed material;

6 (38)~~(29)~~ "Person" includes any individual, firm, copartnership, joint venture,
7 association, social club, fraternal organization, corporation, estate, trust, business
8 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
9 agency, or any other group or combination acting as a unit;

10 (39)~~(30)~~ "Permanent," as the term applies to digital property, means perpetual or for an
11 indefinite or unspecified length of time;

12 (40)~~(31)~~ (a) "Photography and photofinishing services" means:
13 1. The taking, developing, or printing of an original photograph; or
14 2. Image editing, including shadow removal, tone adjustments, vertical and
15 horizontal alignment and cropping, composite image creation,
16 formatting, watermarking printing, and delivery of an original
17 photograph in the form of tangible personal property, digital property, or
18 other media.

19 (b) "Photography and photofinishing services" does not include photography
20 services necessary for medical or dental health;

21 (41)~~(32)~~ "Plant facility" means a single location that is exclusively dedicated to
22 manufacturing or industrial processing activities. A location shall be deemed to be
23 exclusively dedicated to manufacturing or industrial processing activities even if
24 retail sales are made there, provided that the retail sales are incidental to the
25 manufacturing or industrial processing activities occurring at the location. The term
26 "plant facility" does~~shall~~ not include any restaurant, grocery store, shopping
27 center, or other retail establishment;

1 (42)~~(33)~~ (a) "Prewritten computer software" means:

2 1. Computer software, including prewritten upgrades, that are not designed
3 and developed by the author or other creator to the specifications of a
4 specific purchaser;

5 2. Software designed and developed by the author or other creator to the
6 specifications of a specific purchaser when it is sold to a person other
7 than the original purchaser; or

8 3. Any portion of prewritten computer software that is modified or
9 enhanced in any manner, where the modification or enhancement is
10 designed and developed to the specifications of a specific purchaser,
11 unless there is a reasonable, separately stated charge on an invoice or
12 other statement of the price to the purchaser for the modification or
13 enhancement.

14 (b) When a person modifies or enhances computer software of which the person
15 is not the author or creator, the person shall be deemed to be the author or
16 creator only of the modifications or enhancements the person actually made.

17 (c) The combining of two (2) or more prewritten computer software programs or
18 portions thereof does not cause the combination to be other than prewritten
19 computer software;

20 (43)~~(34)~~ "Prewritten computer software access services" means the right of access to
21 prewritten computer software where the object of the transaction is to use the
22 prewritten computer software while possession of the prewritten computer software
23 is maintained by the seller or a third party, wherever located, regardless of whether
24 the charge for the access or use is on a per use, per user, per license, subscription, or
25 some other basis;

26 (44)~~(35)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
27 lease, or rental, conditional or otherwise, in any manner or by any means

7 (b) "Purchase" includes:

8 1. When performed outside this state or when the customer gives a resale

9 certificate, the producing, fabricating, processing, printing, or imprinting

10 of tangible personal property for a consideration for consumers who

11 furnish either directly or indirectly the materials used in the producing,

12 fabricating, processing, printing, or imprinting;

13 2. A transaction whereby the possession of tangible personal property or

14 digital property is transferred but the seller retains the title as security

15 for the payment of the price; and

16 3. A transfer for a consideration of the title or possession of tangible

17 personal property or digital property which has been produced,

18 fabricated, or printed to the special order of the customer, or of any

19 publication;

20 **(45)**~~(36)~~ "Recycled materials" means materials which have been recovered or diverted
21 from the solid waste stream and reused or returned to use in the form of raw
22 materials or products;

23 **(46)****{(37)}** "Recycling purposes" means those activities undertaken in which materials
24 that would otherwise become solid waste are collected, separated, or processed in
25 order to be reused or returned to use in the form of raw materials or products;

26 (47)[(38)] "Remote retailer" means a retailer with no physical presence in this state;

27 (48)[(39)] (a) "Repair, replacement, or spare parts" means any tangible personal

1 property used to maintain, restore, mend, or repair machinery or equipment.

2 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
3 industrial tools;

4 (49)[(40)] (a) "Retailer" means:

5 1. Every person engaged in the business of making retail sales of tangible
6 personal property, digital property, or furnishing any services in a retail
7 sale included in KRS 139.200;

8 2. Every person engaged in the business of making sales at auction of
9 tangible personal property or digital property owned by the person or
10 others for storage, use or other consumption, except as provided in
11 paragraph (c) of this subsection;

12 3. Every person making more than two (2) retail sales of tangible personal
13 property, digital property, or services included in KRS 139.200 during
14 any twelve (12) month period, including sales made in the capacity of
15 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
16 4. Any person conducting a race meeting under the provision of KRS
17 Chapter 230, with respect to horses which are claimed during the
18 meeting.

19 (b) When the department determines that it is necessary for the efficient
20 administration of this chapter to regard any salesmen, representatives,
21 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
22 employers under whom they operate or from whom they obtain the tangible
23 personal property, digital property, or services sold by them, irrespective of
24 whether they are making sales on their own behalf or on behalf of the dealers,
25 distributors, supervisors or employers, the department may so regard them and
26 may regard the dealers, distributors, supervisors or employers as retailers for
27 purposes of this chapter.

1 (c) 1. Any person making sales at a charitable auction for a qualifying entity
2 shall not be a retailer for purposes of the sales made at the charitable
3 auction if:

4 a. The qualifying entity, not the person making sales at the auction, is
5 sponsoring the auction;

6 b. The purchaser of tangible personal property at the auction directly
7 pays the qualifying entity sponsoring the auction for the property
8 and not the person making the sales at the auction; and

9 c. The qualifying entity, not the person making sales at the auction, is
10 responsible for the collection, control, and disbursement of the
11 auction proceeds.

12 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
13 the qualifying entity sponsoring the auction shall be the retailer for
14 purposes of the sales made at the charitable auction.

15 3. For purposes of this paragraph, "qualifying entity" means a resident:

16 a. Church;

17 b. School;

18 c. Civic club; or

19 d. Any other nonprofit charitable, religious, or educational
20 organization;

21 (50)~~(41)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
22 sublease, or subrent;

23 (51)~~(42)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
24 device and that may be used to alert the customer with respect to a
25 communication.

26 (b) "Ringtones" does~~shall~~ not include ringback tones or other digital files that
27 are not stored on the purchaser's communications device;

1 (52)~~(43)~~ (a) "Sale" means:

1. The furnishing of any services included in KRS 139.200; **or**
2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
 - a. Tangible personal property; or
 - b. Digital property transferred electronically;

for a consideration.

9 (b) "Sale" includes but is not limited to:

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.

20 (c) This definition shall apply regardless of the classification of a transaction
21 under generally accepted accounting principles, the Internal Revenue Code, or
22 other provisions of federal, state, or local law;

23 **(53)(44)** "Seller" includes every person engaged in the business of selling tangible
24 personal property, digital property, or services of a kind, the gross receipts from the
25 retail sale of which are required to be included in the measure of the sales tax, and
26 every person engaged in making sales for resale;

27 (54)[(45)] (a) "Storage" includes any keeping or retention in this state for any purpose

1 except sale in the regular course of business or subsequent use solely outside
2 this state of tangible personal property, digital property, or prewritten
3 computer software access services purchased from a retailer.

4 (b) "Storage" does not include the keeping, retaining, or exercising any right or
5 power over tangible personal property for the purpose of subsequently
6 transporting it outside the state for use thereafter solely outside the state, or
7 for the purpose of being processed, fabricated, or manufactured into, attached
8 to, or incorporated into, other tangible personal property to be transported
9 outside the state and thereafter used solely outside the state;

10 (55)~~(46)~~ "Tangible personal property" means personal property which may be seen,
11 weighed, measured, felt, or touched, or which is in any other manner perceptible to
12 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
13 and prewritten computer software;

14 (56)~~(47)~~ "Taxpayer" means any person liable for tax under this chapter;

15 (57)~~(48)~~ "Telemarketing services" means services provided via telephone, facsimile,
16 electronic mail, text messages, or other modes of communications to another
17 person, which are unsolicited by that person, for the purposes of:

18 (a) 1. Promoting products or services;
19 2. Taking orders; or
20 3. Providing information or assistance regarding the products or services;
21 or
22 (b) Soliciting contributions;

23 (58)~~(49)~~ "Transferred electronically" means accessed or obtained by the purchaser by
24 means other than tangible storage media; and

25 (59)~~(50)~~ (a) "Use" includes the exercise of:
26 1. Any right or power over tangible personal property or digital property
27 incident to the ownership of that property, or by any transaction in

1 which possession is given, or by any transaction involving digital
2 property or tangible personal property where the right of access is
3 granted; or

6 (b) "Use" does not include the keeping, retaining, or exercising any right or
7 power over:

8 1. Tangible personal property or digital property for the purpose of:

17 2. Prewritten computer software access services purchased for use outside
18 the state and transferred electronically outside the state for use thereafter
19 solely outside the state.

20 ➔Section 2. KRS 139.480 is amended to read as follows:

21 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
22 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter,
23 **do[shall]** not include the sale, use, storage, or other consumption of:

24 (1) Locomotives or rolling stock, including materials for the construction, repair, or
25 modification thereof, or fuel or supplies for the direct operation of locomotives and
26 trains, used or to be used in interstate commerce;

27 (2) Coal for the manufacture of electricity;

1 producing fuels, materials, labor, procurement, depreciation,
2 maintenance, taxes, administration, and office expenses;

3 3. Maintains separate payroll, bank accounts, tax returns, and other records
4 that demonstrate its independent operations in the performance of its
5 tolling responsibilities;

6 4. Demonstrates one (1) or more substantial business purposes for the
7 tolling operations germane to the overall manufacturing, industrial
8 processing activities, or corporate structure at the plant facility. A
9 business purpose is a purpose other than the reduction of sales tax
10 liability for the purchases of energy and energy-producing fuels; and

11 5. Provides information to the department upon request that documents
12 fulfillment of the requirements in subparagraphs 1. to 4. of this
13 paragraph and gives an overview of its tolling operations with an
14 explanation of how the tolling operations relate and connect with all
15 other manufacturing or industrial processing activities occurring at the
16 plant facility;

17 (4) Livestock of a kind the products of which ordinarily constitute food for human
18 consumption, provided the sales are made for breeding or dairy purposes and by or
19 to a person regularly engaged in the business of farming;

20 (5) Poultry for use in breeding or egg production;

21 (6) Farm work stock for use in farming operations;

22 (7) Seeds, the products of which ordinarily constitute food for human consumption or
23 are to be sold in the regular course of business, and commercial fertilizer to be
24 applied on land, the products from which are to be used for food for human
25 consumption or are to be sold in the regular course of business; provided the sales
26 are made to farmers who are regularly engaged in the occupation of tilling and
27 cultivating the soil for the production of crops as a business, or who are regularly

1 engaged in the occupation of raising and feeding livestock or poultry or producing
2 milk for sale; and provided further that tangible personal property so sold is to be
3 used only by those persons designated above who are so purchasing;

4 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
5 used in the production of crops as a business, or in the raising and feeding of
6 livestock or poultry, the products of which ordinarily constitute food for human
7 consumption;

8 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
9 products of which ordinarily constitute food for human consumption;

10 (10) Machinery for new and expanded industry;

11 (11) Farm machinery. As used in this section, the term "farm machinery":

12 (a) Means machinery used exclusively and directly in the occupation of:

13 1. Tilling the soil for the production of crops as a business;

14 2. Raising and feeding livestock or poultry for sale; or

15 3. Producing milk for sale;

16 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
17 replacement parts which are used or manufactured for use on, or in the
18 operation of farm machinery and which are necessary to the operation of the
19 machinery, and are customarily so used, including but not limited to combine
20 header wagons, combine header trailers, or any other implements specifically
21 designed and used to move or transport a combine head; and

22 (c) Does not include:

23 1. Automobiles;

24 2. Trucks;

25 3. Trailers, except combine header trailers; or

26 4. Truck-trailer combinations;

27 (12) Tombstones and other memorial grave markers;

1 those items specifically required of all students for a particular course but
2 does~~[shall]~~ not include notebooks, paper, pencils, calculators, tape recorders, or
3 similar student aids;

4 (17) Any property which has been certified as an alcohol production facility as defined
5 in KRS 247.910;

6 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
7 direct operation of aircraft in interstate commerce and used exclusively for the
8 conveyance of property or passengers for hire. Nominal intrastate use shall not
9 subject the property to the taxes imposed by this chapter;

10 (19) Any property which has been certified as a fluidized bed energy production facility
11 as defined in KRS 211.390;

12 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
13 modification, or expansion of a blast furnace or any of its components or
14 appurtenant equipment or structures as part of an approved supplemental
15 project, as defined in~~[by]~~ KRS 154.26-010; and
16 2. Materials, supplies, and repair or replacement parts purchased for use in
17 the operation and maintenance of a blast furnace and related carbon
18 steel-making operations as part of an approved supplemental project, as
19 defined in~~[by]~~ KRS 154.26-010.
20 (b) The exemptions provided in this subsection shall be effective for sales made:
21 1. On and after July 1, 2018; and
22 2. During the term of a supplemental project agreement entered into
23 pursuant to KRS 154.26-090;
24 (21) Beginning on October 1, 1986, food or food products purchased for human
25 consumption with food coupons issued by the United States Department of
26 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
27 be exempted by the Food Security Act of 1985 in order for the Commonwealth to

1 continue participation in the federal food stamp program;

2 (22) Machinery or equipment purchased or leased by a business, industry, or
3 organization in order to collect, source separate, compress, bale, shred, or otherwise
4 handle waste materials if the machinery or equipment is primarily used for
5 recycling purposes;

6 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
7 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
8 products, and the following items used in this agricultural pursuit:

9 (a) Feed and feed additives;

10 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
11 and

12 (c) On-farm facilities, including equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities. The exemption shall apply to incubation
15 systems, egg processing equipment, waterer and feeding systems, brooding
16 systems, ventilation systems, alarm systems, and curtain systems. In addition,
17 the exemption shall apply whether or not the seller is under contract to
18 deliver, assemble, and incorporate into real estate the equipment, machinery,
19 attachments, repair and replacement parts, and any materials incorporated into
20 the construction, renovation, or repair of the facilities;

21 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
22 these embryos and semen ordinarily constitute food for human consumption, and if
23 the sale is made to a person engaged in the business of farming;

24 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
25 the breeding and production of hides, breeding stock, fiber and wool products,
26 meat, and llama and alpaca by-products, and the following items used in this
27 pursuit:

- 1 (a) Feed and feed additives;
- 2 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 3 and
- 4 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 5 replacement parts, and any materials incorporated into the construction,
- 6 renovation, or repair of the facilities. The exemption shall apply to waterer
- 7 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 8 exemption shall apply whether or not the seller is under contract to deliver,
- 9 assemble, and incorporate into real estate the equipment, machinery,
- 10 attachments, repair and replacement parts, and any materials incorporated into
- 11 the construction, renovation, or repair of the facilities;
- 12 (26) Baling twine and baling wire for the baling of hay and straw;
- 13 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 14 (a) Production of crops;
- 15 (b) Production of milk for sale; or
- 16 (c) Raising and feeding of:
 - 17 1. Livestock or poultry, the products of which ordinarily constitute food
 - 18 for human consumption; or
 - 19 2. Ratites, llamas, alpacas, buffaloes[buffalo], cervids or aquatic
 - 20 organisms;
- 21 (28) Buffaloes[Buffalos] to be used as beasts of burden or in an agricultural pursuit for
- 22 the production of hides, breeding stock, meat, and buffalo by-products, and the
- 23 following items used in this pursuit:
- 24 (a) Feed and feed additives;
- 25 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 26 and
- 27 (c) On-farm facilities, including equipment, machinery, attachments, repair and

1 replacement parts, and any materials incorporated into the construction,
2 renovation, or repair of the facilities. The exemption shall apply to waterer
3 and feeding systems, ventilation systems, and alarm systems. In addition, the
4 exemption shall apply whether or not the seller is under contract to deliver,
5 assemble, and incorporate into real estate the equipment, machinery,
6 attachments, repair and replacement parts, and any materials incorporated into
7 the construction, renovation, or repair of the facilities;

8 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
9 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
10 and the following items used in this pursuit:

11 (a) Feed and feed additives;

12 (b) Water;

13 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
14 and

15 (d) On-farm facilities, including equipment, machinery, attachments, repair and
16 replacement parts, and any materials incorporated into the construction,
17 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
18 petroleum gas, or natural gas used to operate the facilities. The exemption
19 shall apply, but not be limited to: waterer and feeding systems; ventilation,
20 aeration, and heating systems; processing and storage systems; production
21 systems such as ponds, tanks, and raceways; harvest and transport equipment
22 and systems; and alarm systems. In addition, the exemption shall apply
23 whether or not the seller is under contract to deliver, assemble, and
24 incorporate into real estate the equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities;

27 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the

1 production of hides, breeding stock, meat, and cervid by-products, and the
2 following items used in this pursuit:

3 (a) Feed and feed additives;

4 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

5 (c) On-site facilities, including equipment, machinery, attachments, repair and
6 replacement parts, and any materials incorporated into the construction,
7 renovation, or repair of the facilities. In addition, the exemption shall apply
8 whether or not the seller is under contract to deliver, assemble, and
9 incorporate into real estate the equipment, machinery, attachments, repair and
10 replacement parts, and any materials incorporated into the construction,
11 renovation, or repair of the facilities;

12 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
13 vehicle, including any towed unit, used exclusively in interstate commerce for
14 the conveyance of property or passengers for hire, provided the motor vehicle
15 is licensed for use on the highway and its declared gross vehicle weight with
16 any towed unit is forty-four thousand and one (44,001) pounds or greater.
17 Nominal intrastate use shall not subject the property to the taxes imposed by
18 this chapter; and

19 (b) Repair or replacement parts for the direct operation and maintenance of a
20 motor vehicle operating under a charter bus certificate issued by the
21 Transportation Cabinet under KRS Chapter 281, or under similar authority
22 granted by the United States Department of Transportation.

23 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
24 brakes, engines, transmissions, drive trains, chassis, body parts, and their
25 components. "Repair or replacement parts" ~~does[shall]~~ not include fuel,
26 machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not
27 essential to the operation of the motor vehicle itself, except when sold as part

1 of the assembled unit, such as cigarette lighters, radios, lighting fixtures not
2 otherwise required by the manufacturer for operation of the vehicle, or tool or
3 utility boxes;

4 (32) Food donated by a retail food establishment or any other entity regulated under
5 KRS 217.127 to a nonprofit organization for distribution to the needy;

6 (33) Drugs and over-the-counter drugs, as defined in KRS 139.472, that are purchased
7 by a person regularly engaged in the business of farming and used in the treatment
8 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas,
9 **buffaloes****[buffalo]**, aquatic organisms, or cervids;

10 (34) (a) Building materials, fixtures, or supplies purchased by a construction
11 contractor if:

1. Fulfilled by a construction contract for a sewer or water project with:

26 g Any other governmental agency; and

- 1 a. Will be permanently incorporated into a structure or improvement
2 to real property, or will be completely consumed, in fulfilling a
3 construction contract for the purpose of furnishing water or sewer
4 services to the general public; and
5 b. Would be exempt if purchased directly by the entities listed in
6 subparagraph 1. of this paragraph.
- 7 (b) As used in this subsection, "construction contract" means a:
 - 8 1. Lump sum contract;
 - 9 2. Cost plus contract;
 - 10 3. Materials only contract;
 - 11 4. Labor and materials contract; or
 - 12 5. Any other type of contract.
- 13 (c) The exemption provided in this subsection shall apply without regard to the
14 payment arrangement between the construction contractor, the retailer, and
15 the entities listed in paragraph (a)1. of this subsection or to the place of
16 delivery for the building materials, fixtures, or supplies;
- 17 (35) (a) On or after February 25, 2022, the rental of space for meetings, conventions,
18 short-term business uses, entertainment events, weddings, banquets, parties,
19 and other short-term social events, as referenced in KRS 139.200, if the tax
20 established in KRS 139.200 is paid by the primary lessee to the lessor.
- 21 (b) For the purpose of this subsection, "primary lessee" means the person who
22 leases the space and who has a contract with the lessor of the space only if:
 - 23 1. The contract between the lessor and the lessee specifies that the lessee
24 may sublease, subrent, or otherwise sell the space; and
 - 25 2. The space is then sublet, subrented, or otherwise sold to exhibitors,
26 vendors, sponsors, or other entities and persons who will use the space
27 associated with the event to be conducted under the primary lease;

- 1 (36) Prewritten computer software access services sold to or purchased by a retailer that
- 2 develops prewritten computer software for print technology and uses and sells
- 3 prewritten computer software access services for print technology;
- 4 (37) (a) Currency or bullion.
- 5 (b) As used in this subsection:
 - 6 1. "Bullion":
 - 7 a. Means bars, ingots, or coins, which are:
 - 8 i. Made of gold, silver, platinum, palladium, or a combination
 - 9 of these metals;
 - 10 ii. Valued based on the content of the metal and not its form;
 - 11 and
 - 12 iii. Used, or have been used, as a medium of exchange, security,
 - 13 or commodity by any state, the United States government, or
 - 14 a foreign nation; and
 - 15 b. Does not include medallions or coins that are incorporated into a
 - 16 pendant or other jewelry; and
 - 17 2. "Currency":
 - 18 a. Means a coin or currency made of gold, silver, platinum,
 - 19 palladium, or other metal or paper money that is or has been used
 - 20 as legal tender and is sold based on its value as a collectible item
 - 21 rather than the value as a medium of exchange; and
 - 22 b. Does not include a coin or currency that has been incorporated into
 - 23 jewelry; ~~and~~
 - 24 (38) Medicinal cannabis as defined in KRS 218B.010 when sold, used, stored, or
 - 25 consumed in accordance with KRS Chapter 218B; *and*
 - 26 (39) (a) *Ammunition, antique firearms, body armor, firearms, firearm-related*
 - 27 *accessories, firearm safety courses, firearm safety devices, and firearm*

1 storage devices;

2 (b) Admissions or other program fees relating to:

3 1. A trade show that lasts less than seven (7) days, in which firearms are
4 available for sale or purchase by the public; or
5 2. A facility which offers indoor or outdoor target practice for firearms to
6 the public; and

7 (c) Noise cancelling ear protection with a noise reduction rating of twenty-five
8 (25) decibels or more.

9 ➔Section 3. This Act takes effect August 1, 2026.