

1 AN ACT relating to a sales and use tax exemption for veterans' service animals.

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) "Business" includes any activity engaged in by any person or caused to be engaged
5 in by that person with the object of gain, benefit, or advantage, either direct or
6 indirect;
- 7 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 8 (5) (a) "Cosmetic surgery services" means modifications to all areas of the head,
9 neck, and body to enhance appearance through surgical and medical
10 techniques.
- 11 (b) "Cosmetic surgery services" does not include surgery services that are
12 medically necessary to reconstruct or correct dysfunctional areas of the face
13 and body due to birth disorders, trauma, burns, or disease;
- 14 (6) "Department" means the Department of Revenue;
- 15 (7) (a) "Digital audio-visual works" means a series of related images which, when
16 shown in succession, impart an impression of motion, with accompanying
17 sounds, if any.
- 18 (b) "Digital audio-visual works" includes movies, motion pictures, musical
19 videos, news and entertainment programs, and live events.
- 20 (c) "Digital audio-visual works" shall not include video greeting cards, video
21 games, and electronic games;
- 22 (8) (a) "Digital audio works" means works that result from the fixation of a series of
23 musical, spoken, or other sounds.
- 24 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
25 readings of books or other written materials, speeches, or other sound
26 recordings.
- 27 (c) "Digital audio works" shall not include audio greeting cards sent by electronic

1 mail;

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

6 (b) "Digital books" shall not include digital audio-visual works, digital audio
7 works, periodicals, magazines, newspapers, or other news or information
8 products, chat rooms, or weblogs;

9 (10) (a) "Digital code" means a code which provides a purchaser with a right to obtain
10 one (1) or more types of digital property. A "digital code" may be obtained by
11 any means, including electronic mail messaging or by tangible means,
12 regardless of the code's designation as a song code, video code, or book code.

13 (b) "Digital code" shall not include a code that represents:

- 14 1. A stored monetary value that is deducted from a total as it is used by the
15 purchaser; or
- 16 2. A redeemable card, gift card, or gift certificate that entitles the holder to
17 select specific types of digital property;

18 (11) (a) "Digital property" means any of the following which is transferred
19 electronically:

- 20 1. Digital audio works;
- 21 2. Digital books;
- 22 3. Finished artwork;
- 23 4. Digital photographs;
- 24 5. Periodicals;
- 25 6. Newspapers;
- 26 7. Magazines;
- 27 8. Video greeting cards;

1 9. Audio greeting cards;

2 10. Video games;

3 11. Electronic games; or

4 12. Any digital code related to this property.

5 (b) "Digital property" shall not include digital audio-visual works or satellite
6 radio programming;

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

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

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

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

20 **(14) "Disability" means a physical or mental impairment, including a sensory,**
21 **psychiatric, intellectual, or post-traumatic stress disorder, that substantially limits**
22 **one (1) or more of the major life activities of an individual;**

23 **(15) "Disabled veteran" means a person with a disability, if:**

24 **(a) The disability has been determined by the United States Department of**
25 **Veterans Affairs to affect a veteran that is an active or retired member of**
26 **the active duty or reserve components of the Armed Forces of the United**
27 **States, which include the Army, Marine Corps, Navy, Air Force, Space**

1 *Force, Coast Guard, and National Guard; and*
2 *(b) The United States Department of Veterans Affairs has used one (1) or more*
3 *of the veteran's disabilities to assign a disability rating to the veteran;*

4 ~~(16)~~~~(14)~~ (a) "Executive employee recruitment services" means services provided by
5 a person to locate potential candidates to fill open senior-level management
6 positions.

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

11 ~~(17)~~~~(15)~~ (a) "Extended warranty services" means services provided through a service
12 contract agreement between the contract provider and the purchaser where the
13 purchaser agrees to pay compensation for the contract and the provider agrees
14 to repair, replace, support, or maintain tangible personal property, digital
15 property, real property, or prewritten computer software access services
16 according to the terms of the contract.

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

22 ~~(18)~~~~(16)~~ (a) "Finished artwork" means final art that is used for actual reproduction
23 by photomechanical or other processes or for display purposes.

24 (b) "Finished artwork" includes:

- 25 1. Assemblies;
- 26 2. Charts;
- 27 3. Designs;

- 1 4. Drawings;
- 2 5. Graphs;
- 3 6. Illustrative materials;
- 4 7. Lettering;
- 5 8. Mechanicals;
- 6 9. Paintings; and
- 7 10. Paste-ups;

8 ~~(19)~~~~(17)~~ (a) "Gross receipts" and "sales price" mean the total amount or
9 consideration, including cash, credit, property, and services, for which
10 tangible personal property, digital property, or services are sold, leased, or
11 rented, valued in money, whether received in money or otherwise, without
12 any deduction for any of the following:

- 13 1. The retailer's cost of the tangible personal property, digital property, or
14 services sold;
- 15 2. The cost of the materials used, labor or service cost, interest, losses, all
16 costs of transportation to the retailer, all taxes imposed on the retailer, or
17 any other expense of the retailer;
- 18 3. Charges by the retailer for any services necessary to complete the sale;
- 19 4. Delivery charges, which are defined as charges by the retailer for the
20 preparation and delivery to a location designated by the purchaser
21 including transportation, shipping, postage, handling, crating, and
22 packing;
- 23 5. Any amount for which credit is given to the purchaser by the retailer,
24 other than credit for tangible personal property or digital property traded
25 when the tangible personal property or digital property traded is of like
26 kind and character to the property purchased and the property traded is
27 held by the retailer for resale; and

- 1 6. The amount charged for labor or services rendered in installing or
2 applying the tangible personal property, digital property, or service sold.
- 3 (b) "Gross receipts" and "sales price" shall include consideration received by the
4 retailer from a third party if:
- 5 1. The retailer actually receives consideration from a third party and the
6 consideration is directly related to a price reduction or discount on the
7 sale to the purchaser;
- 8 2. The retailer has an obligation to pass the price reduction or discount
9 through to the purchaser;
- 10 3. The amount of consideration attributable to the sale is fixed and
11 determinable by the retailer at the time of the sale of the item to the
12 purchaser; and
- 13 4. One (1) of the following criteria is met:
- 14 a. The purchaser presents a coupon, certificate, or other
15 documentation to the retailer to claim a price reduction or discount
16 where the coupon, certificate, or documentation is authorized,
17 distributed, or granted by a third party with the understanding that
18 the third party will reimburse any seller to whom the coupon,
19 certificate, or documentation is presented;
- 20 b. The price reduction or discount is identified as a third-party price
21 reduction or discount on the invoice received by the purchaser or
22 on a coupon, certificate, or other documentation presented by the
23 purchaser; or
- 24 c. The purchaser identifies himself or herself to the retailer as a
25 member of a group or organization entitled to a price reduction or
26 discount. A "preferred customer" card that is available to any
27 patron does not constitute membership in such a group.

- 1 (c) "Gross receipts" and "sales price" shall not include:
- 2 1. Discounts, including cash, term, or coupons that are not reimbursed by a
- 3 third party and that are allowed by a retailer and taken by a purchaser on
- 4 a sale;
- 5 2. Interest, financing, and carrying charges from credit extended on the
- 6 sale of tangible personal property, digital property, or services, if the
- 7 amount is separately stated on the invoice, bill of sale, or similar
- 8 document given to the purchaser;
- 9 3. Any taxes legally imposed directly on the purchaser that are separately
- 10 stated on the invoice, bill of sale, or similar document given to the
- 11 purchaser; or
- 12 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
- 13 are separately stated on the invoice, bill of sale, or similar document
- 14 given to the purchaser.

15 (d) As used in this subsection, "third party" means a person other than the

16 purchaser;

17 ~~(20)~~~~(18)~~ "In this state" or "in the state" means within the exterior limits of the

18 Commonwealth and includes all territory within these limits owned by or ceded to

19 the United States of America;

20 ~~(21)~~~~(19)~~ "Industrial processing" includes:

- 21 (a) Refining;
- 22 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 23 (c) Mining, quarrying, fabricating, and industrial assembling;
- 24 (d) The processing and packaging of raw materials, in-process materials, and
- 25 finished products; and
- 26 (e) The processing and packaging of farm and dairy products for sale;

27 ~~(22)~~~~(20)~~ (a) "Lease or rental" means any transfer of possession or control of tangible

1 personal property for a fixed or indeterminate term for consideration. A lease
2 or rental shall include future options to:

- 3 1. Purchase the property; or
- 4 2. Extend the terms of the agreement and agreements covering trailers
5 where the amount of consideration may be increased or decreased by
6 reference to the amount realized upon sale or disposition of the property
7 as defined in 26 U.S.C. sec. 7701(h)(1).

8 (b) "Lease or rental" shall not include:

- 9 1. A transfer of possession or control of property under a security
10 agreement or deferred payment plan that requires the transfer of title
11 upon completion of the required payments;
- 12 2. A transfer of possession or control of property under an agreement that
13 requires the transfer of title upon completion of the required payments
14 and payment of an option price that does not exceed the greater of one
15 hundred dollars (\$100) or one percent (1%) of the total required
16 payments; or
- 17 3. Providing tangible personal property and an operator for the tangible
18 personal property for a fixed or indeterminate period of time. To qualify
19 for this exclusion, the operator must be necessary for the equipment to
20 perform as designed, and the operator must do more than maintain,
21 inspect, or setup the tangible personal property.

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

25 ~~(23)~~~~(24)~~ (a) "Lobbying services" means the act of promoting or securing passage of
26 legislation or an attempt to influence or sway a public official or other public
27 servant toward a desired action, including but not limited to the support of or

1 opposition to a project or the passage, amendment, defeat, approval, or veto of
2 any legislation, regulation, rule, or ordinance;

3 (b) "Lobbying services" includes but is not limited to the performance of
4 activities described as executive agency lobbying activities as defined in KRS
5 11A.201, activities described under the definition of lobby in KRS 6.611, and
6 any similar activities performed at the local, state, or federal levels;

7 ~~(24)~~~~(22)~~ (a) "Machinery for new and expanded industry" means machinery:

- 8 1. Directly used in the manufacturing or industrial processing process of:
 - 9 a. Tangible personal property at a plant facility;
 - 10 b. Distilled spirits or wine at a plant facility or on the premises of a
11 distiller, rectifier, winery, or small farm winery licensed under
12 KRS 243.030 that includes a retail establishment on the premises;
13 or
 - 14 c. Malt beverages at a plant facility or on the premises of a brewer or
15 microbrewery licensed under KRS 243.040 that includes a retail
16 establishment;
- 17 2. Which is incorporated for the first time into:
 - 18 a. A plant facility established in this state; or
 - 19 b. Licensed premises located in this state; and
- 20 3. Which does not replace machinery in the plant facility or licensed
21 premises unless that machinery purchased to replace existing machinery:
 - 22 a. Increases the consumption of recycled materials at the plant
23 facility by not less than ten percent (10%);
 - 24 b. Performs different functions;
 - 25 c. Is used to manufacture a different product; or
 - 26 d. Has a greater productive capacity, as measured in units of
27 production, than the machinery being replaced.

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

5 ~~(25)~~~~(23)~~ "Manufacturing" means any process through which material having little or
6 no commercial value for its intended use before processing has appreciable
7 commercial value for its intended use after processing by the machinery;

8 ~~(26)~~~~(24)~~ "Marketplace" means any physical or electronic means through which one (1)
9 or more retailers may advertise and sell tangible personal property, digital property,
10 or services, or lease tangible personal property or digital property, such as a catalog,
11 Internet website, or television or radio broadcast, regardless of whether the tangible
12 personal property, digital property, or retailer is physically present in this state;

13 ~~(27)~~~~(25)~~ (a) "Marketplace provider" means a person, including any affiliate of the
14 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
15 this paragraph as follows:

- 16 1. The person directly or indirectly:
- 17 a. Lists, makes available, or advertises tangible personal property,
18 digital property, or services for sale by a marketplace retailer in a
19 marketplace owned, operated, or controlled by the person;
- 20 b. Facilitates the sale of a marketplace retailer's product through a
21 marketplace by transmitting or otherwise communicating an offer
22 or acceptance of a retail sale of tangible personal property, digital
23 property, or services between a marketplace retailer and a
24 purchaser in a forum including a shop, store, booth, catalog,
25 Internet site, or similar forum;
- 26 c. Owns, rents, licenses, makes available, or operates any electronic
27 or physical infrastructure or any property, process, method,

- 1 copyright, trademark, or patent that connects marketplace retailers
2 to purchasers for the purpose of making retail sales of tangible
3 personal property, digital property, or services;
- 4 d. Provides a marketplace for making retail sales of tangible personal
5 property, digital property, or services, or otherwise facilitates retail
6 sales of tangible personal property, digital property, or services,
7 regardless of ownership or control of the tangible personal
8 property, digital property, or services, that are the subject of the
9 retail sale;
- 10 e. Provides software development or research and development
11 activities related to any activity described in this subparagraph, if
12 the software development or research and development activities
13 are directly related to the physical or electronic marketplace
14 provided by a marketplace provider;
- 15 f. Provides or offers fulfillment or storage services for a marketplace
16 retailer;
- 17 g. Sets prices for a marketplace retailer's sale of tangible personal
18 property, digital property, or services;
- 19 h. Provides or offers customer service to a marketplace retailer or a
20 marketplace retailer's customers, or accepts or assists with taking
21 orders, returns, or exchanges of tangible personal property, digital
22 property, or services sold by a marketplace retailer; or
- 23 i. Brands or otherwise identifies sales as those of the marketplace
24 provider; and
- 25 2. The person directly or indirectly:
- 26 a. Collects the sales price or purchase price of a retail sale of tangible
27 personal property, digital property, or services;

- 1 b. Provides payment processing services for a retail sale of tangible
2 personal property, digital property, or services;
- 3 c. Through terms and conditions, agreements, or arrangements with a
4 third party, collects payment in connection with a retail sale of
5 tangible personal property, digital property, or services from a
6 purchaser and transmits that payment to the marketplace retailer,
7 regardless of whether the person collecting and transmitting the
8 payment receives compensation or other consideration in exchange
9 for the service; or
- 10 d. Provides a virtual currency that purchasers are allowed or required
11 to use to purchase tangible personal property, digital property, or
12 services.

13 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
14 requirements of this subsection through the ownership, operation, or control
15 of a digital distribution service, digital distribution platform, online portal, or
16 application store;

17 ~~(28)~~~~(26)~~ "Marketplace retailer" means a seller that makes retail sales through any
18 marketplace owned, operated, or controlled by a marketplace provider;

19 ~~(29)~~~~(27)~~ (a) "Occasional sale" includes:

- 20 1. A sale of tangible personal property or digital property not held or used
21 by a seller in the course of an activity for which he or she is required to
22 hold a seller's permit, provided such sale is not one (1) of a series of
23 sales sufficient in number, scope, and character to constitute an activity
24 requiring the holding of a seller's permit. In the case of the sale of the
25 entire, or a substantial portion of the nonretail assets of the seller, the
26 number of previous sales of similar assets shall be disregarded in
27 determining whether or not the current sale or sales shall qualify as an

1 occasional sale; or

2 2. Any transfer of all or substantially all the tangible personal property or
3 digital property held or used by a person in the course of such an activity
4 when after such transfer the real or ultimate ownership of such property
5 is substantially similar to that which existed before such transfer.

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

10 ~~(30)~~~~(28)~~ (a) "Other direct mail" means any direct mail that is not advertising and
11 promotional direct mail, regardless of whether advertising and promotional
12 direct mail is included in the same mailing.

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

14 1. Transactional direct mail that contains personal information specific to
15 the addressee, including but not limited to invoices, bills, statements of
16 account, and payroll advices;

17 2. Any legally required mailings, including but not limited to privacy
18 notices, tax reports, and stockholder reports; and

19 3. Other nonpromotional direct mail delivered to existing or former
20 shareholders, customers, employees, or agents, including but not limited
21 to newsletters and informational pieces.

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

25 ~~(31)~~~~(29)~~ "Person" includes any individual, firm, copartnership, joint venture,
26 association, social club, fraternal organization, corporation, estate, trust, business
27 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or

1 agency, or any other group or combination acting as a unit;

2 ~~(32)~~~~(30)~~ "Permanent," as the term applies to digital property, means perpetual or for an
3 indefinite or unspecified length of time;

4 ~~(33)~~~~(31)~~ (a) "Photography and photofinishing services" means:

- 5 1. The taking, developing, or printing of an original photograph; or
- 6 2. Image editing, including shadow removal, tone adjustments, vertical and
7 horizontal alignment and cropping, composite image creation,
8 formatting, watermarking printing, and delivery of an original
9 photograph in the form of tangible personal property, digital property, or
10 other media.

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

13 ~~(34)~~~~(32)~~ "Plant facility" means a single location that is exclusively dedicated to
14 manufacturing or industrial processing activities. A location shall be deemed to be
15 exclusively dedicated to manufacturing or industrial processing activities even if
16 retail sales are made there, provided that the retail sales are incidental to the
17 manufacturing or industrial processing activities occurring at the location. The term
18 "plant facility" shall not include any restaurant, grocery store, shopping center, or
19 other retail establishment;

20 ~~(35)~~~~(33)~~ (a) "Prewritten computer software" means:

- 21 1. Computer software, including prewritten upgrades, that are not designed
22 and developed by the author or other creator to the specifications of a
23 specific purchaser;
- 24 2. Software designed and developed by the author or other creator to the
25 specifications of a specific purchaser when it is sold to a person other
26 than the original purchaser; or
- 27 3. Any portion of prewritten computer software that is modified or

1 enhanced in any manner, where the modification or enhancement is
2 designed and developed to the specifications of a specific purchaser,
3 unless there is a reasonable, separately stated charge on an invoice or
4 other statement of the price to the purchaser for the modification or
5 enhancement.

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

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

12 ~~(36)~~~~(34)~~ "Prewritten computer software access services" means the right of access to
13 prewritten computer software where the object of the transaction is to use the
14 prewritten computer software while possession of the prewritten computer software
15 is maintained by the seller or a third party, wherever located, regardless of whether
16 the charge for the access or use is on a per use, per user, per license, subscription, or
17 some other basis;

18 ~~(37)~~~~(35)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
19 lease, or rental, conditional or otherwise, in any manner or by any means
20 whatsoever, of:

- 21 1. Tangible personal property;
- 22 2. An extended warranty service;
- 23 3. Digital property transferred electronically; or
- 24 4. Services included in KRS 139.200;
- 25 for a consideration.

26 (b) "Purchase" includes:

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

- 1 certificate, the producing, fabricating, processing, printing, or imprinting
2 of tangible personal property for a consideration for consumers who
3 furnish either directly or indirectly the materials used in the producing,
4 fabricating, processing, printing, or imprinting;
- 5 2. A transaction whereby the possession of tangible personal property or
6 digital property is transferred but the seller retains the title as security
7 for the payment of the price; and
- 8 3. A transfer for a consideration of the title or possession of tangible
9 personal property or digital property which has been produced,
10 fabricated, or printed to the special order of the customer, or of any
11 publication;
- 12 ~~(38)~~~~(36)~~ "Recycled materials" means materials which have been recovered or diverted
13 from the solid waste stream and reused or returned to use in the form of raw
14 materials or products;
- 15 ~~(39)~~~~(37)~~ "Recycling purposes" means those activities undertaken in which materials
16 that would otherwise become solid waste are collected, separated, or processed in
17 order to be reused or returned to use in the form of raw materials or products;
- 18 ~~(40)~~~~(38)~~ "Remote retailer" means a retailer with no physical presence in this state;
- 19 ~~(41)~~~~(39)~~ (a) "Repair, replacement, or spare parts" means any tangible personal
20 property used to maintain, restore, mend, or repair machinery or equipment.
- 21 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
22 industrial tools;
- 23 ~~(42)~~~~(40)~~ (a) "Retailer" means:
- 24 1. Every person engaged in the business of making retail sales of tangible
25 personal property, digital property, or furnishing any services in a retail
26 sale included in KRS 139.200;
- 27 2. Every person engaged in the business of making sales at auction of

- 1 tangible personal property or digital property owned by the person or
2 others for storage, use or other consumption, except as provided in
3 paragraph (c) of this subsection;
- 4 3. Every person making more than two (2) retail sales of tangible personal
5 property, digital property, or services included in KRS 139.200 during
6 any twelve (12) month period, including sales made in the capacity of
7 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
- 8 4. Any person conducting a race meeting under the provision of KRS
9 Chapter 230, with respect to horses which are claimed during the
10 meeting.
- 11 (b) When the department determines that it is necessary for the efficient
12 administration of this chapter to regard any salesmen, representatives,
13 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
14 employers under whom they operate or from whom they obtain the tangible
15 personal property, digital property, or services sold by them, irrespective of
16 whether they are making sales on their own behalf or on behalf of the dealers,
17 distributors, supervisors or employers, the department may so regard them and
18 may regard the dealers, distributors, supervisors or employers as retailers for
19 purposes of this chapter.
- 20 (c) 1. Any person making sales at a charitable auction for a qualifying entity
21 shall not be a retailer for purposes of the sales made at the charitable
22 auction if:
- 23 a. The qualifying entity, not the person making sales at the auction, is
24 sponsoring the auction;
- 25 b. The purchaser of tangible personal property at the auction directly
26 pays the qualifying entity sponsoring the auction for the property
27 and not the person making the sales at the auction; and

- 1 c. The qualifying entity, not the person making sales at the auction, is
2 responsible for the collection, control, and disbursement of the
3 auction proceeds.
- 4 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
5 the qualifying entity sponsoring the auction shall be the retailer for
6 purposes of the sales made at the charitable auction.
- 7 3. For purposes of this paragraph, "qualifying entity" means a resident:
- 8 a. Church;
- 9 b. School;
- 10 c. Civic club; or
- 11 d. Any other nonprofit charitable, religious, or educational
12 organization;
- 13 ~~(43)~~~~[(41)]~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
14 sublease, or subrent;
- 15 ~~(44)~~~~[(42)]~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
16 device and that may be used to alert the customer with respect to a
17 communication.
- 18 (b) "Ringtones" shall not include ringback tones or other digital files that are not
19 stored on the purchaser's communications device;
- 20 ~~(45)~~~~[(43)]~~ (a) "Sale" means:
- 21 1. The furnishing of any services included in KRS 139.200;
- 22 2. Any transfer of title or possession, exchange, barter, lease, or rental,
23 conditional or otherwise, in any manner or by any means whatsoever,
24 of:
- 25 a. Tangible personal property; or
- 26 b. Digital property transferred electronically;
- 27 for a consideration.

- 1 (b) "Sale" includes but is not limited to:
- 2 1. The producing, fabricating, processing, printing, or imprinting of
- 3 tangible personal property or digital property for a consideration for
- 4 purchasers who furnish, either directly or indirectly, the materials used
- 5 in the producing, fabricating, processing, printing, or imprinting;
- 6 2. A transaction whereby the possession of tangible personal property or
- 7 digital property is transferred, but the seller retains the title as security
- 8 for the payment of the price; and
- 9 3. A transfer for a consideration of the title or possession of tangible
- 10 personal property or digital property which has been produced,
- 11 fabricated, or printed to the special order of the purchaser.

12 (c) This definition shall apply regardless of the classification of a transaction

13 under generally accepted accounting principles, the Internal Revenue Code, or

14 other provisions of federal, state, or local law;

15 ~~(46)~~~~[(44)]~~ "Seller" includes every person engaged in the business of selling tangible

16 personal property, digital property, or services of a kind, the gross receipts from the

17 retail sale of which are required to be included in the measure of the sales tax, and

18 every person engaged in making sales for resale;

19 **(47) (a) "Service animal" means any dog or miniature horse that is individually**

20 **trained to do work or perform tasks for the benefit of an individual with a**

21 **disability.**

22 **(b) Other species of animals, whether wild or domestic, trained or untrained,**

23 **are not service animals for the purposes of this definition.**

24 **(c) The work or tasks performed by a service animal must be directly related to**

25 **the individual's disability.**

26 **(d) Examples of work or tasks include but are not limited to:**

27 **1. Assisting individuals who are blind or have low vision with navigation**

- 1 and other tasks;
- 2 2. Alerting individuals who are deaf or hard of hearing to the presence
- 3 of people or sounds;
- 4 3. Providing nonviolent protection or rescue work;
- 5 4. Pulling a wheelchair;
- 6 5. Assisting an individual during a seizure;
- 7 6. Alerting individuals to the presence of allergens;
- 8 7. Retrieving items such as medicine or the telephone;
- 9 8. Providing physical support and assistance with balance and stability to
- 10 individuals with mobility disabilities; and
- 11 9. Helping persons with psychiatric and neurological disabilities by
- 12 preventing or interrupting impulsive or destructive behaviors.

13 (e) The crime deterrent effects of an animal's presence and the provision of

14 emotional support, well-being, comfort, or companionship do not constitute

15 work or tasks for the purposes of this definition;

16 ~~(48)~~~~[(45)]~~ (a) "Storage" includes any keeping or retention in this state for any purpose

17 except sale in the regular course of business or subsequent use solely outside

18 this state of tangible personal property, digital property, or prewritten

19 computer software access services purchased from a retailer.

20 (b) "Storage" does not include the keeping, retaining, or exercising any right or

21 power over tangible personal property for the purpose of subsequently

22 transporting it outside the state for use thereafter solely outside the state, or

23 for the purpose of being processed, fabricated, or manufactured into, attached

24 to, or incorporated into, other tangible personal property to be transported

25 outside the state and thereafter used solely outside the state;

26 ~~(49)~~~~[(46)]~~ "Tangible personal property" means personal property which may be seen,

27 weighed, measured, felt, or touched, or which is in any other manner perceptible to

1 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
2 and prewritten computer software;

3 ~~(50)~~~~(47)~~ "Taxpayer" means any person liable for tax under this chapter;

4 ~~(51)~~~~(48)~~ "Telemarketing services" means services provided via telephone, facsimile,
5 electronic mail, text messages, or other modes of communications to another
6 person, which are unsolicited by that person, for the purposes of:

- 7 (a) 1. Promoting products or services;
8 2. Taking orders; or
9 3. Providing information or assistance regarding the products or services;
10 or

11 (b) Soliciting contributions;

12 ~~(52)~~~~(49)~~ "Transferred electronically" means accessed or obtained by the purchaser by
13 means other than tangible storage media; and

14 ~~(53)~~~~(50)~~ (a) "Use" includes the exercise of:

- 15 1. Any right or power over tangible personal property or digital property
16 incident to the ownership of that property, or by any transaction in
17 which possession is given, or by any transaction involving digital
18 property or tangible personal property where the right of access is
19 granted; or
20 2. Any right or power to benefit from any services subject to tax under
21 KRS 139.200(2)(p) to (ax).

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

- 24 1. Tangible personal property or digital property for the purpose of:
25 a. Selling tangible personal property or digital property in the regular
26 course of business; or
27 b. Subsequently transporting tangible personal property outside the

1 state for use thereafter solely outside the state, or for the purpose
2 of being processed, fabricated, or manufactured into, attached to,
3 or incorporated into, other tangible personal property to be
4 transported outside the state and thereafter used solely outside the
5 state; or

6 2. Prewritten computer software access services purchased for use outside
7 the state and transferred electronically outside the state for use thereafter
8 solely outside the state.

9 ➔Section 2. KRS 139.480 (Effective until January 1, 2025) is amended to read as
10 follows:

11 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
12 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
13 include the sale, use, storage, or other consumption of:

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

17 (2) Coal for the manufacture of electricity;

18 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
19 processing, mining, or refining and any related distribution, transmission, and
20 transportation services for this energy that are billed to the user, to the extent
21 that the cost of the energy or energy-producing fuels used, and related
22 distribution, transmission, and transportation services for this energy that are
23 billed to the user exceed three percent (3%) of the cost of production.

24 (b) Cost of production shall be computed on the basis of a plant facility, which
25 shall include all operations within the continuous, unbroken, integrated
26 manufacturing or industrial processing process that ends with a product
27 packaged and ready for sale.

- 1 (c) A person who performs a manufacturing or industrial processing activity for a
2 fee and does not take ownership of the tangible personal property that is
3 incorporated into, or becomes the product of, the manufacturing or industrial
4 processing activity is a toller. For periods on or after July 1, 2018, the costs of
5 the tangible personal property shall be excluded from the toller's cost of
6 production at a plant facility with tolling operations in place as of July 1,
7 2018.
- 8 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
9 tangible personal property shall be excluded from the toller's cost of
10 production if the toller:
- 11 1. Maintains a binding contract for periods after July 1, 2018, that governs
12 the terms, conditions, and responsibilities with a separate legal entity,
13 which holds title to the tangible personal property that is incorporated
14 into, or becomes the product of, the manufacturing or industrial
15 processing activity;
 - 16 2. Maintains accounting records that show the expenses it incurs to fulfill
17 the binding contract that include but are not limited to energy or energy-
18 producing fuels, materials, labor, procurement, depreciation,
19 maintenance, taxes, administration, and office expenses;
 - 20 3. Maintains separate payroll, bank accounts, tax returns, and other records
21 that demonstrate its independent operations in the performance of its
22 tolling responsibilities;
 - 23 4. Demonstrates one (1) or more substantial business purposes for the
24 tolling operations germane to the overall manufacturing, industrial
25 processing activities, or corporate structure at the plant facility. A
26 business purpose is a purpose other than the reduction of sales tax
27 liability for the purchases of energy and energy-producing fuels; and

- 1 5. Provides information to the department upon request that documents
2 fulfillment of the requirements in subparagraphs 1. to 4. of this
3 paragraph and gives an overview of its tolling operations with an
4 explanation of how the tolling operations relate and connect with all
5 other manufacturing or industrial processing activities occurring at the
6 plant facility;
- 7 (4) Livestock of a kind the products of which ordinarily constitute food for human
8 consumption, provided the sales are made for breeding or dairy purposes and by or
9 to a person regularly engaged in the business of farming;
- 10 (5) Poultry for use in breeding or egg production;
- 11 (6) Farm work stock for use in farming operations;
- 12 (7) Seeds, the products of which ordinarily constitute food for human consumption or
13 are to be sold in the regular course of business, and commercial fertilizer to be
14 applied on land, the products from which are to be used for food for human
15 consumption or are to be sold in the regular course of business; provided such sales
16 are made to farmers who are regularly engaged in the occupation of tilling and
17 cultivating the soil for the production of crops as a business, or who are regularly
18 engaged in the occupation of raising and feeding livestock or poultry or producing
19 milk for sale; and provided further that tangible personal property so sold is to be
20 used only by those persons designated above who are so purchasing;
- 21 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
22 used in the production of crops as a business, or in the raising and feeding of
23 livestock or poultry, the products of which ordinarily constitute food for human
24 consumption;
- 25 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
26 products of which ordinarily constitute food for human consumption;
- 27 (10) Machinery for new and expanded industry;

- 1 (11) Farm machinery. As used in this section, the term "farm machinery":
- 2 (a) Means machinery used exclusively and directly in the occupation of:
- 3 1. Tilling the soil for the production of crops as a business;
- 4 2. Raising and feeding livestock or poultry for sale; or
- 5 3. Producing milk for sale;
- 6 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
- 7 replacement parts which are used or manufactured for use on, or in the
- 8 operation of farm machinery and which are necessary to the operation of the
- 9 machinery, and are customarily so used, including but not limited to combine
- 10 header wagons, combine header trailers, or any other implements specifically
- 11 designed and used to move or transport a combine head; and
- 12 (c) Does not include:
- 13 1. Automobiles;
- 14 2. Trucks;
- 15 3. Trailers, except combine header trailers; or
- 16 4. Truck-trailer combinations;
- 17 (12) Tombstones and other memorial grave markers;
- 18 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 19 or handling. The exemption applies to the equipment, machinery, attachments,
- 20 repair and replacement parts, and any materials incorporated into the construction,
- 21 renovation, or repair of the facilities;
- 22 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 23 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 24 and any materials incorporated into the construction, renovation, or repair of the
- 25 facilities. The exemption shall apply but not be limited to vent board equipment,
- 26 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
- 27 and curtain systems. In addition, the exemption shall apply whether or not the seller

- 1 is under contract to deliver, assemble, and incorporate into real estate the
2 equipment, machinery, attachments, repair and replacement parts, and any materials
3 incorporated into the construction, renovation, or repair of the facilities;
- 4 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
5 and directly to:
- 6 (a) Operate farm machinery as defined in subsection (11) of this section;
7 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
8 (13) of this section;
9 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
10 this section;
11 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
12 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
13 section; or
14 (f) Operate on-farm dairy facilities;
- 15 (16) Textbooks, including related workbooks and other course materials, purchased for
16 use in a course of study conducted by an institution which qualifies as a nonprofit
17 educational institution under KRS 139.495. The term "course materials" means only
18 those items specifically required of all students for a particular course but shall not
19 include notebooks, paper, pencils, calculators, tape recorders, or similar student
20 aids;
- 21 (17) Any property which has been certified as an alcohol production facility as defined
22 in KRS 247.910;
- 23 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
24 direct operation of aircraft in interstate commerce and used exclusively for the
25 conveyance of property or passengers for hire. Nominal intrastate use shall not
26 subject the property to the taxes imposed by this chapter;
- 27 (19) Any property which has been certified as a fluidized bed energy production facility

1 as defined in KRS 211.390;

2 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
3 modification, or expansion of a blast furnace or any of its components or
4 appurtenant equipment or structures as part of an approved supplemental
5 project, as defined by KRS 154.26-010; and

6 2. Materials, supplies, and repair or replacement parts purchased for use in
7 the operation and maintenance of a blast furnace and related carbon
8 steel-making operations as part of an approved supplemental project, as
9 defined by KRS 154.26-010.

10 (b) The exemptions provided in this subsection shall be effective for sales made:

11 1. On and after July 1, 2018; and

12 2. During the term of a supplemental project agreement entered into
13 pursuant to KRS 154.26-090;

14 (21) Beginning on October 1, 1986, food or food products purchased for human
15 consumption with food coupons issued by the United States Department of
16 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
17 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
18 continue participation in the federal food stamp program;

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

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

26 (a) Feed and feed additives;

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

1 and

2 (c) On-farm facilities, including equipment, machinery, attachments, repair and
3 replacement parts, and any materials incorporated into the construction,
4 renovation, or repair of the facilities. The exemption shall apply to incubation
5 systems, egg processing equipment, waterer and feeding systems, brooding
6 systems, ventilation systems, alarm systems, and curtain systems. In addition,
7 the exemption shall apply whether or not the seller is under contract to
8 deliver, assemble, and incorporate into real estate the equipment, machinery,
9 attachments, repair and replacement parts, and any materials incorporated into
10 the construction, renovation, or repair of the facilities;

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

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

18 (a) Feed and feed additives;

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

20 and

21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to waterer
24 and feeding systems, ventilation systems, and alarm systems. In addition, the
25 exemption shall apply whether or not the seller is under contract to deliver,
26 assemble, and incorporate into real estate the equipment, machinery,
27 attachments, repair and replacement parts, and any materials incorporated into

- 1 the construction, renovation, or repair of the facilities;
- 2 (26) Baling twine and baling wire for the baling of hay and straw;
- 3 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 4 (a) Production of crops;
- 5 (b) Production of milk for sale; or
- 6 (c) Raising and feeding of:
- 7 1. Livestock or poultry, the products of which ordinarily constitute food
- 8 for human consumption; or
- 9 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 10 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
- 11 production of hides, breeding stock, meat, and buffalo by-products, and the
- 12 following items used in this pursuit:
- 13 (a) Feed and feed additives;
- 14 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 15 and
- 16 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 17 replacement parts, and any materials incorporated into the construction,
- 18 renovation, or repair of the facilities. The exemption shall apply to waterer
- 19 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 20 exemption shall apply whether or not the seller is under contract to deliver,
- 21 assemble, and incorporate into real estate the equipment, machinery,
- 22 attachments, repair and replacement parts, and any materials incorporated into
- 23 the construction, renovation, or repair of the facilities;
- 24 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
- 25 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
- 26 and the following items used in this pursuit:
- 27 (a) Feed and feed additives;

- 1 (b) Water;
- 2 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 3 and
- 4 (d) 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 and, any gasoline, special fuels, liquefied
- 7 petroleum gas, or natural gas used to operate the facilities. The exemption
- 8 shall apply, but not be limited to: waterer and feeding systems; ventilation,
- 9 aeration, and heating systems; processing and storage systems; production
- 10 systems such as ponds, tanks, and raceways; harvest and transport equipment
- 11 and systems; and alarm systems. In addition, the exemption shall apply
- 12 whether or not the seller is under contract to deliver, assemble, and
- 13 incorporate into real estate the equipment, machinery, attachments, repair and
- 14 replacement parts, and any materials incorporated into the construction,
- 15 renovation, or repair of the facilities;
- 16 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
- 17 production of hides, breeding stock, meat, and cervid by-products, and the
- 18 following items used in this pursuit:
- 19 (a) Feed and feed additives;
- 20 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 21 (c) On-site facilities, including equipment, machinery, attachments, repair and
- 22 replacement parts, and any materials incorporated into the construction,
- 23 renovation, or repair of the facilities. In addition, the exemption shall apply
- 24 whether or not the seller is under contract to deliver, assemble, and
- 25 incorporate into real estate the equipment, machinery, attachments, repair and
- 26 replacement parts, and any materials incorporated into the construction,
- 27 renovation, or repair of the facilities;

- 1 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
2 vehicle, including any towed unit, used exclusively in interstate commerce for
3 the conveyance of property or passengers for hire, provided the motor vehicle
4 is licensed for use on the highway and its declared gross vehicle weight with
5 any towed unit is forty-four thousand and one (44,001) pounds or greater.
6 Nominal intrastate use shall not subject the property to the taxes imposed by
7 this chapter; and
- 8 (b) Repair or replacement parts for the direct operation and maintenance of a
9 motor vehicle operating under a charter bus certificate issued by the
10 Transportation Cabinet under KRS Chapter 281, or under similar authority
11 granted by the United States Department of Transportation.
- 12 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
13 brakes, engines, transmissions, drive trains, chassis, body parts, and their
14 components. "Repair or replacement parts" shall not include fuel, machine
15 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
16 to the operation of the motor vehicle itself, except when sold as part of the
17 assembled unit, such as cigarette lighters, radios, lighting fixtures not
18 otherwise required by the manufacturer for operation of the vehicle, or tool or
19 utility boxes;
- 20 (32) Food donated by a retail food establishment or any other entity regulated under
21 KRS 217.127 to a nonprofit organization for distribution to the needy;
- 22 (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased
23 by a person regularly engaged in the business of farming and used in the treatment
24 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic
25 organisms, or cervids;
- 26 (34) (a) Building materials, fixtures, or supplies purchased by a construction
27 contractor if:

- 1 1. Fulfilled by a construction contract for a sewer or water project with:
 - 2 a. A municipally owned water utility organized under KRS Chapter
 - 3 96;
 - 4 b. A water district or water commission formed or organized under
 - 5 KRS Chapter 74;
 - 6 c. A sanitation district established under KRS Chapter 220 or formed
 - 7 pursuant to KRS Chapter 65;
 - 8 d. A nonprofit corporation created under KRS 58.180 to act on behalf
 - 9 of a governmental agency in the acquisition and financing of
 - 10 public projects;
 - 11 e. Regional wastewater commissions formed under KRS Chapter
 - 12 278;
 - 13 f. A municipally owned joint sewer agency formed under KRS
 - 14 Chapter 76; or
 - 15 g. Any other governmental agency; and
- 16 2. The building materials, fixtures, or supplies:
 - 17 a. Will be permanently incorporated into a structure or improvement
 - 18 to real property, or will be completely consumed, in fulfilling a
 - 19 construction contract for the purpose of furnishing water or sewer
 - 20 services to the general public; and
 - 21 b. Would be exempt if purchased directly by the entities listed in
 - 22 subparagraph 1. of this paragraph.
- 23 (b) As used in this subsection, "construction contract" means a:
 - 24 1. Lump sum contract;
 - 25 2. Cost plus contract;
 - 26 3. Materials only contract;
 - 27 4. Labor and materials contract; or

1 5. Any other type of contract.

2 (c) The exemption provided in this subsection shall apply without regard to the
3 payment arrangement between the construction contractor, the retailer, and
4 the entities listed in paragraph (a)1. of this subsection or to the place of
5 delivery for the building materials, fixtures, or supplies;

6 (35) (a) On or after February 25, 2022, the rental of space for meetings, conventions,
7 short-term business uses, entertainment events, weddings, banquets, parties,
8 and other short-term social events, as referenced in KRS 139.200, if the tax
9 established in KRS 139.200 is paid by the primary lessee to the lessor.

10 (b) For the purpose of this subsection, "primary lessee" means the person who
11 leases the space and who has a contract with the lessor of the space only if:

12 1. The contract between the lessor and the lessee specifies that the lessee
13 may sublease, subrent, or otherwise sell the space; and

14 2. The space is then sublet, subrented, or otherwise sold to exhibitors,
15 vendors, sponsors, or other entities and persons who will use the space
16 associated with the event to be conducted under the primary lease; ~~and~~

17 (36) Prewritten computer software access services sold to or purchased by a retailer that
18 develops prewritten computer software for print technology and uses and sells
19 prewritten computer software access services for print technology; ***and***

20 ***(37) Veterinarian services and charges sold to or purchased by a disabled veteran in***
21 ***relation to the veteran's service animal.***

22 ➔Section 3. KRS 139.480 (Effective January 1, 2025) is amended to read as
23 follows:

24 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
25 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
26 include the sale, use, storage, or other consumption of:

27 (1) Locomotives or rolling stock, including materials for the construction, repair, or

1 modification thereof, or fuel or supplies for the direct operation of locomotives and
2 trains, used or to be used in interstate commerce;

3 (2) Coal for the manufacture of electricity;

4 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
5 processing, mining, or refining and any related distribution, transmission, and
6 transportation services for this energy that are billed to the user, to the extent
7 that the cost of the energy or energy-producing fuels used, and related
8 distribution, transmission, and transportation services for this energy that are
9 billed to the user exceed three percent (3%) of the cost of production.

10 (b) Cost of production shall be computed on the basis of a plant facility, which
11 shall include all operations within the continuous, unbroken, integrated
12 manufacturing or industrial processing process that ends with a product
13 packaged and ready for sale.

14 (c) A person who performs a manufacturing or industrial processing activity for a
15 fee and does not take ownership of the tangible personal property that is
16 incorporated into, or becomes the product of, the manufacturing or industrial
17 processing activity is a toller. For periods on or after July 1, 2018, the costs of
18 the tangible personal property shall be excluded from the toller's cost of
19 production at a plant facility with tolling operations in place as of July 1,
20 2018.

21 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
22 tangible personal property shall be excluded from the toller's cost of
23 production if the toller:

24 1. Maintains a binding contract for periods after July 1, 2018, that governs
25 the terms, conditions, and responsibilities with a separate legal entity,
26 which holds title to the tangible personal property that is incorporated
27 into, or becomes the product of, the manufacturing or industrial

- 1 processing activity;
- 2 2. Maintains accounting records that show the expenses it incurs to fulfill
- 3 the binding contract that include but are not limited to energy or energy-
- 4 producing fuels, materials, labor, procurement, depreciation,
- 5 maintenance, taxes, administration, and office expenses;
- 6 3. Maintains separate payroll, bank accounts, tax returns, and other records
- 7 that demonstrate its independent operations in the performance of its
- 8 tolling responsibilities;
- 9 4. Demonstrates one (1) or more substantial business purposes for the
- 10 tolling operations germane to the overall manufacturing, industrial
- 11 processing activities, or corporate structure at the plant facility. A
- 12 business purpose is a purpose other than the reduction of sales tax
- 13 liability for the purchases of energy and energy-producing fuels; and
- 14 5. Provides information to the department upon request that documents
- 15 fulfillment of the requirements in subparagraphs 1. to 4. of this
- 16 paragraph and gives an overview of its tolling operations with an
- 17 explanation of how the tolling operations relate and connect with all
- 18 other manufacturing or industrial processing activities occurring at the
- 19 plant facility;
- 20 (4) Livestock of a kind the products of which ordinarily constitute food for human
- 21 consumption, provided the sales are made for breeding or dairy purposes and by or
- 22 to a person regularly engaged in the business of farming;
- 23 (5) Poultry for use in breeding or egg production;
- 24 (6) Farm work stock for use in farming operations;
- 25 (7) Seeds, the products of which ordinarily constitute food for human consumption or
- 26 are to be sold in the regular course of business, and commercial fertilizer to be
- 27 applied on land, the products from which are to be used for food for human

1 consumption or are to be sold in the regular course of business; provided such sales
2 are made to farmers who are regularly engaged in the occupation of tilling and
3 cultivating the soil for the production of crops as a business, or who are regularly
4 engaged in the occupation of raising and feeding livestock or poultry or producing
5 milk for sale; and provided further that tangible personal property so sold is to be
6 used only by those persons designated above who are so purchasing;

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

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

13 (10) Machinery for new and expanded industry;

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

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

- 16 1. Tilling the soil for the production of crops as a business;
- 17 2. Raising and feeding livestock or poultry for sale; or
- 18 3. Producing milk for sale;

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

25 (c) Does not include:

- 26 1. Automobiles;
- 27 2. Trucks;

- 1 3. Trailers, except combine header trailers; or
- 2 4. Truck-trailer combinations;
- 3 (12) Tombstones and other memorial grave markers;
- 4 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 5 or handling. The exemption applies to the equipment, machinery, attachments,
- 6 repair and replacement parts, and any materials incorporated into the construction,
- 7 renovation, or repair of the facilities;
- 8 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 9 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 10 and any materials incorporated into the construction, renovation, or repair of the
- 11 facilities. The exemption shall apply but not be limited to vent board equipment,
- 12 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
- 13 and curtain systems. In addition, the exemption shall apply whether or not the seller
- 14 is under contract to deliver, assemble, and incorporate into real estate the
- 15 equipment, machinery, attachments, repair and replacement parts, and any materials
- 16 incorporated into the construction, renovation, or repair of the facilities;
- 17 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
- 18 and directly to:
- 19 (a) Operate farm machinery as defined in subsection (11) of this section;
- 20 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
- 21 (13) of this section;
- 22 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
- 23 this section;
- 24 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 25 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
- 26 section; or
- 27 (f) Operate on-farm dairy facilities;

- 1 (16) Textbooks, including related workbooks and other course materials, purchased for
2 use in a course of study conducted by an institution which qualifies as a nonprofit
3 educational institution under KRS 139.495. The term "course materials" means only
4 those items specifically required of all students for a particular course but shall not
5 include notebooks, paper, pencils, calculators, tape recorders, or similar student
6 aids;
- 7 (17) Any property which has been certified as an alcohol production facility as defined
8 in KRS 247.910;
- 9 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
10 direct operation of aircraft in interstate commerce and used exclusively for the
11 conveyance of property or passengers for hire. Nominal intrastate use shall not
12 subject the property to the taxes imposed by this chapter;
- 13 (19) Any property which has been certified as a fluidized bed energy production facility
14 as defined in KRS 211.390;
- 15 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
16 modification, or expansion of a blast furnace or any of its components or
17 appurtenant equipment or structures as part of an approved supplemental
18 project, as defined by KRS 154.26-010; and
19 2. Materials, supplies, and repair or replacement parts purchased for use in
20 the operation and maintenance of a blast furnace and related carbon
21 steel-making operations as part of an approved supplemental project, as
22 defined by KRS 154.26-010.
- 23 (b) The exemptions provided in this subsection shall be effective for sales made:
24 1. On and after July 1, 2018; and
25 2. During the term of a supplemental project agreement entered into
26 pursuant to KRS 154.26-090;
- 27 (21) Beginning on October 1, 1986, food or food products purchased for human

- 1 consumption with food coupons issued by the United States Department of
2 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
3 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
4 continue participation in the federal food stamp program;
- 5 (22) Machinery or equipment purchased or leased by a business, industry, or
6 organization in order to collect, source separate, compress, bale, shred, or otherwise
7 handle waste materials if the machinery or equipment is primarily used for
8 recycling purposes;
- 9 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
10 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
11 products, and the following items used in this agricultural pursuit:
- 12 (a) Feed and feed additives;
- 13 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
14 and
- 15 (c) 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. The exemption shall apply to incubation
18 systems, egg processing equipment, waterer and feeding systems, brooding
19 systems, ventilation systems, alarm systems, and curtain systems. In addition,
20 the exemption shall apply whether or not the seller is under contract to
21 deliver, assemble, and incorporate into real estate the equipment, machinery,
22 attachments, repair and replacement parts, and any materials incorporated into
23 the construction, renovation, or repair of the facilities;
- 24 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
25 these embryos and semen ordinarily constitute food for human consumption, and if
26 the sale is made to a person engaged in the business of farming;
- 27 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for

1 the breeding and production of hides, breeding stock, fiber and wool products,
2 meat, and llama and alpaca by-products, and the following items used in this
3 pursuit:

- 4 (a) Feed and feed additives;
- 5 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 6 and
- 7 (c) On-farm facilities, including equipment, machinery, attachments, repair and
8 replacement parts, and any materials incorporated into the construction,
9 renovation, or repair of the facilities. The exemption shall apply to waterer
10 and feeding systems, ventilation systems, and alarm systems. In addition, the
11 exemption shall apply whether or not the seller is under contract to deliver,
12 assemble, and incorporate into real estate the equipment, machinery,
13 attachments, repair and replacement parts, and any materials incorporated into
14 the construction, renovation, or repair of the facilities;

15 (26) Baling twine and baling wire for the baling of hay and straw;

16 (27) Water sold to a person regularly engaged in the business of farming and used in the:

- 17 (a) Production of crops;
- 18 (b) Production of milk for sale; or
- 19 (c) Raising and feeding of:
 - 20 1. Livestock or poultry, the products of which ordinarily constitute food
21 for human consumption; or
 - 22 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

23 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
24 production of hides, breeding stock, meat, and buffalo by-products, and the
25 following items used in this pursuit:

- 26 (a) Feed and feed additives;
- 27 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

1 and

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

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

13 (a) Feed and feed additives;

14 (b) Water;

15 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
16 and

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

1 renovation, or repair of the facilities;

2 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
3 production of hides, breeding stock, meat, and cervid by-products, and the
4 following items used in this pursuit:

5 (a) Feed and feed additives;

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

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

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

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

25 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
26 brakes, engines, transmissions, drive trains, chassis, body parts, and their
27 components. "Repair or replacement parts" shall not include fuel, machine

1 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
2 to the operation of the motor vehicle itself, except when sold as part of the
3 assembled unit, such as cigarette lighters, radios, lighting fixtures not
4 otherwise required by the manufacturer for operation of the vehicle, or tool or
5 utility boxes;

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

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

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

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

15 a. A municipally owned water utility organized under KRS Chapter
16 96;

17 b. A water district or water commission formed or organized under
18 KRS Chapter 74;

19 c. A sanitation district established under KRS Chapter 220 or formed
20 pursuant to KRS Chapter 65;

21 d. A nonprofit corporation created under KRS 58.180 to act on behalf
22 of a governmental agency in the acquisition and financing of
23 public projects;

24 e. Regional wastewater commissions formed under KRS Chapter
25 278;

26 f. A municipally owned joint sewer agency formed under KRS
27 Chapter 76; or

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

1 vendors, sponsors, or other entities and persons who will use the space
2 associated with the event to be conducted under the primary lease;

3 (36) Prewritten computer software access services sold to or purchased by a retailer that
4 develops prewritten computer software for print technology and uses and sells
5 prewritten computer software access services for print technology;~~and~~

6 (37) *Veterinarian services and charges sold to or purchased by a disabled veteran in*
7 *relation to the veteran's service animal; and*

8 (38) Medicinal cannabis as defined in KRS 218B.010 when sold, used, stored, or
9 consumed in accordance with KRS Chapter 218B.

10 ➔Section 4. This Act shall take effect on August 1, 2024.