

### **138.450 Definitions for KRS 138.455 to 138.470.**

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

- (1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;
- (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;
- (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;
- (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;
- (5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;
- (6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;
- (8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;
- (9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional. "Total consideration given" shall not include:
  - (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;
  - (b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and
  - (c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;
- (10) "Trade-in allowance" means:

- (a) The value assigned by the seller of a motor vehicle to a motor vehicle registered to the purchaser and offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given; or
  - (b) In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;
- (12) "Retail price" for:
- (a) New motor vehicles;
  - (b) Dealer demonstrator vehicles;
  - (c) Previous model year motor vehicles; and
  - (d) U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;
- means the total consideration given, as determined in KRS 138.4602;
- (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- (14) "Retail price" for used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values appear in the reference manual means the trade-in value given in the reference manual;
- (15) "Retail price" for older used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values no longer appear in the reference manual shall be one hundred dollars (\$100);
- (16) (a) "Retail price" for:
- 1. Used motor vehicles, except those vehicles for which the retail price is established in subsection (13), (14), (15), (17), or (19) of this section; and
  - 2. U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles;
- means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller, as attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the trade-in value, as established by the reference manual, of the motor vehicle offered for registration and the trade-in value, as established by the reference manual, of any motor vehicle offered in trade as part of the total consideration given.
- (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
  - (c) If a notarized affidavit is not available, "retail price" shall be established by the department through the use of the reference manual;

- (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the trade-in value given in the reference manual;
- (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of subsection (12) of this section computed as of the date on which the vehicle is transferred;
- (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525, 186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;
- (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership;
- (21) "Department" means the Department of Revenue;
- (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized; and
- (23) "Reference manual" means the automotive reference manual prescribed by the department.

**Effective:** September 1, 2009

**History:** Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 111, effective September 1, 2009. -- Amended 2006 Ky. Acts ch. 252, Pt. XXXV, sec. 3, effective January 1, 2007; ch. 251, sec. 3, effective July 12, 2006; and ch. 6, sec. 8, effective March 6, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 385, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 26, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 166, sec. 2, effective July 15, 1998; and ch. 600, sec. 3, effective April 14, 1998. -- Amended 1994 Ky. Acts ch. 54, sec. 1, effective July 15, 1994; and ch. 405, sec. 16, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 269, sec. 1, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 431, sec. 2, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 194, sec. 1, effective July 15, 1982; and ch. 387, sec. 2, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 349, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 6, sec. 6. -- Amended 1976 Ky. Acts ch. 349, sec. 1, effective July 1, 1976. -- Amended 1968 Ky. Acts ch. 40, Pt. III, sec. 1. -- Amended 1960 Ky. Acts ch. 186, Art. IV, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4281i-1.

**Legislative Research Commission Note** (9/1/2009). The internal numbering of subsection (12) of this statute has been altered in codification by the Reviser of Statutes from the way it appeared in 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 94, to correct a manifest clerical or typographical error under the authority of KRS 7.136.

**Legislative Research Commission Note** (1/1/2007). This section was amended by 2006 Ky. Acts chs. 6, 251, and 252. Where these Acts are not in conflict, they have been codified together. Where a conflict exists between Acts ch. 6 and chs. 251 and 252,

Acts chs. 251 and 252, which were enacted by the General Assembly after Acts ch. 6, prevail under KRS 446.250.

**Legislative Research Commission Note** (3/6/2006). 2006 Ky. Acts ch. 6, sec. 29, provides that this section applies retroactively to July 1, 2005.