



October 1, 2026

Governor Andrew Beshear
Office of the Governor
501 High Street, 2nd Floor
Frankfort, KY 40602
Via email to counsel

Dear Governor Beshear,

As the Kentucky Commissioner of Agriculture, it is my duty to promote the interests of agriculture and horticulture in the Commonwealth. KRS 246.020. It is for this reason that I wish to draw your attention to the current emergency impacting farmers—the sky-high price of diesel affecting the 2026 fall harvest season.

Multiple Governors have already taken action to provide some relief to farmers in their State. Specifically recognizing President Trump’s declaration of a National Energy Emergency¹ in effect through at least January 20, 2027, the Governors of Texas², Nebraska³, and Louisiana⁴ have declared states of emergency in their respective States and used emergency powers to suspend statutes prohibiting the use of untaxed diesel fuel in farm vehicles used on the public highways. I urge you to take similar action and allow for the use of untaxed diesel fuel for the remainder of the fall harvest season for the limited purpose of harvesting and transporting agricultural products this year.

KRS 39A.020(10) defines “disaster” as “any incident or situation declared as such by executive action of the Governor, or the President of the United States, pursuant to federal law.” Further, “declared emergency” means, among other things, “any incident or situation declared to be . . . [a] disaster . . . by executive order of the Governor.” KRS 39A.020(8). Because President Trump has already declared that a National Energy Emergency exists in the United States, you are authorized to declare that a similar Energy Emergency exists in the Commonwealth, as have other

¹ Exec. Order No. 14156. (Jan. 20, 2025). Available at <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>

² Proclamation by the Governor of Texas, September 25, 2026. Available at https://gov.texas.gov/uploads/files/press/DISASTER_fuel_emergency_disaster_proc_IMAGE_09-28-2026.pdf

³ Nebraska Gov. Exec. Order No. 26-21. Agricultural Diesel Fuel Supply. September 24, 2026. Available at <https://govdocs.nebraska.gov/docs/pilot/pubs/eofiles/26-21.pdf>

⁴ Louisiana Gov. Exec. Order No. JML 26-090. State of Emergency Agriculture and Forestry Diesel Fuel Supply. September 22, 2026. Available at <https://gov.louisiana.gov/assets/2026-Executive-Orders/JML-Exective-Order-26-090.pdf>





Governors. If you were to declare such an emergency, KRS 39A.180 would authorize you, with consent of the Attorney General, to suspend KRS 138.502.

I believe suspension of KRS 138.502, which prohibits the use of untaxed or dyed diesel fuel on the public highways, would provide meaningful relief to the Commonwealth's farmers and Kentucky's citizens broadly. Transportation costs are one of many factors that goes into the price of food. Increased transportation costs will result in increased costs of food. By providing some relief to the cost of transporting agricultural commodities to market, farmers and citizens are both served with lower prices and higher margins.

I am committed to working with you in any manner that will serve the interests of Kentucky's agricultural community, as well as all citizens broadly. I look forward to your response to this urgent request.

Sincerely,

Jonathan Shell
Kentucky Agriculture Commissioner
Kentucky Department of Agriculture

Cc: Attorney General Russell Coleman
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Via email to counsel

