

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

804 KAR 13:020E

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(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation prescribes the form of the tobacco, nicotine, or vapor product license application utilized by the department.

(b) The necessity of this administrative regulation:

KRS 438.3063 mandates that the department prescribe a form to apply for a tobacco, nicotine, or vapor product license. This regulation is necessitated by that statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3063 mandates that the department prescribe a form to apply for a tobacco, nicotine, or vapor product license. This administrative regulation prescribes the form of the tobacco, nicotine, or vapor product license application utilized by the department, as required by the statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist with the effective administration of the statute by providing the form needed to apply for the required license. Without an application process in place, the ability to sell tobacco, nicotine, or vapor products will be adversely affected.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

It is estimated that there are approximately 7,000 retailers of tobacco, nicotine or vapor products in the Commonwealth of Kentucky. These businesses include gas stations, grocery stores, and standalone vape/tobacco businesses. All businesses that want to sell tobacco, nicotine, or vapor products, must have a license to sell any of those products as of January 1, 2026.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an

amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Kentucky businesses must obtain a license to sell tobacco, nicotine, or vapor products by January 1, 2026. This regulation provides the form for those businesses to apply for the required license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

This regulation does not impose costs on any entity identified in question (3). However, the license fee is set out in statute.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities wishing to sell tobacco, nicotine, or vapor products will benefit from this regulation as it provides the form they will need to obtain the required license.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of \$2,750,000.00 and an annual increased cost of \$2,250,000.00 to the department. A portion of those additional staff members will be dedicated to—and the costs associated with their hiring will be attributed to—the processing of applications and the issuance of licenses contemplated by this administrative regulation.

(b) On a continuing basis: See increased annual cost referenced above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100) will be funded through the collection of licensure fees and civil penalty fines.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: SB 100 established license fees and fines that will be necessary to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied. This regulation provides the form for applicants wishing to obtain a tobacco, nicotine or vapor product license.