

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

804 KAR 13:030

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(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

(b) The necessity of this administrative regulation:

KRS 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This regulation outlines the reasons an application may or shall be denied and is necessary to provide information to potential applicants.

(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 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines for potential applicants the specific reasons that their application for a tobacco, nicotine or vapor product license may or shall be denied.

(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 stand alone 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 outlines for those business owners the reasons an application for the license may be denied. This regulation does not require the entities listed to do anything.

(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).

(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 specifically outlines the reasons an application for a license may be denied. This will allow an applicant to know in advance, if they are not qualified for the license.

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

(a) Initially: There is no specific cost associated with implementation of this particular regulation. However, 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.

(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 only informs applicants of the reasons their license application may be denied.