

STATEMENT OF EMERGENCY
804 KAR 13:020E.

Pursuant to KRS 13A.190(1)(a)1. and 2025 Ky. Acts Ch. 78 (SB 100), this emergency administrative regulation is being promulgated to meet an imminent threat to public health, safety, and welfare.

As SB 100, which the Governor signed into law on March 24, 2025, shows, the safe and reasonable regulation of tobacco, nicotine, and vapor products within the Commonwealth is crucial for the general public's health, safety, and welfare. The Department of Alcoholic Beverage Control estimates that approximately 7,000 tobacco, nicotine, or vapor product retailers are currently operating in the absence of licensure contemplated by SB 100. In order to ensure that safe, comprehensive regulation is in place – and to prevent a continued and imminent threat to all Kentuckians' health, safety, and welfare – this emergency amendment is being promulgated to implement the tobacco, nicotine, or vapor product licensing structure as soon as possible.

This emergency administrative regulation will be replaced by an ordinary administrative regulation filed concurrently. The ordinary administrative regulation identical to emergency administrative regulation.

SCOTTY TRACY, Commissioner
ANDY BESHEAR, Governor

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Emergency Administrative Regulation)

804 KAR 13:020E. Tobacco, nicotine, or vapor product license application forms.

RELATES TO: KRS 438.3063, 438.3065, 438.3067, 438.310

STATUTORY AUTHORITY: KRS 438.3055, 438.3063, 438.340

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: 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 438.3055 authorizes the Division of Tobacco, Nicotine, and Vapor Product Licensing to promulgate administrative regulations that govern the sale and distribution of alternative nicotine products, tobacco products, and vapor products. 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 forms utilized by the department.

Section 1. Definitions. "Licensee" shall mean the holder of a tobacco, nicotine, or vapor product license.

Section 2. Initial Tobacco, Nicotine, or Vapor Product License Application Requirements.

- (1) An initial applicant for a tobacco, nicotine, or vapor product license shall:
 - (a) Complete and submit the Initial Tobacco, Nicotine, or Vapor Product License Application form, and the associated documents required by that form, to the commissioner via the department's online licensing portal at <https://abcportal.ky.gov/BELLEExternal>;
 - (b) Pay the nonrefundable application fee established by KRS 438.3063(1); and
 - (c) Pay the license fee established in KRS 438.3063(4)(a).
- (2) If the applicant has purchased a tobacco, nicotine, or vapor product licensed business and wishes to continue selling tobacco, nicotine, or vapor products at this business premises, the applicant shall, in addition to the requirements of subsection (1):
 - (a) Indicate on the Initial Tobacco, Nicotine, or Vapor Product License Application form that it has purchased the business from a licensee;
 - (b) Submit documentation of the published advertisement in accordance with KRS 438.3065(1)(b) to the commissioner via the department's online licensing portal at <https://abcportal.ky.gov/BELLEExternal>;
 - (c) Submit written verification of the seller's consent to the sale via the department's online licensing portal at <https://abcportal.ky.gov/BELLEExternal> in the format required by the Initial Tobacco, Nicotine, or Vapor Product License Application; and
 - (d) Pay the nonrefundable transitional license fee established by KRS 438.3065(2).

Section 3. Renewal Schedule.

- (1) Tobacco, nicotine, or vapor product licenses shall expire one year from the date the license is issued unless renewed.
- (2) Notwithstanding subsection (1) of this section, and pursuant to KRS 438.3063(3), initial applicants for a tobacco, nicotine, or vapor product license may elect to schedule the first renewal of their tobacco, nicotine, or vapor product license, if issued, to occur in the calendar year after which an initial license was obtained, in accordance with either:
 - (a) The renewal schedule for alcoholic beverage licenses outlined in 804 KAR 4:390, Section 2, in the county in which their premises is located; or
 - (b) If the applicant will be batch renewing their licenses, in accordance with the renewal schedule for batch renewals outlined in 804 KAR 4:390, Section 3.

(3) Notwithstanding subsection (1) of this section, if an applicant elects for their renewal schedule to occur in accordance with 804 KAR 4:390 pursuant to KRS 438.3063(3) and subsection (2) of this section:

(a) The applicant shall pay a prorated tobacco, nicotine, or vapor product license fee equal to one-twelfth (1/12) the annual fee for a tobacco, nicotine, or vapor product license, multiplied by the number of months between the issuance of their initial tobacco, nicotine, or vapor product license and either:

1. The month alcoholic beverage licenses expire in the county in which their licensed premises is located, in the calendar year after which an initial license was obtained, in accordance with 804 KAR 4:390 Section 2; or

2. If batch renewing their license, the month alcoholic beverage licenses expire for batch renewals in the calendar year after which an initial licensed was obtained, in accordance with 804 KAR 4:390 Section 3. In either case, the number of months to be considered in calculating the amount of the fee shall include the month the tobacco, nicotine, or vapor product license is issued and the month that alcoholic beverage licenses expire under the relevant renewal schedule.

(b) The applicant's initial tobacco, nicotine, or vapor product license, if issued, shall be deemed surrendered on the date alcoholic beverage licenses expire in accordance with the renewal schedule the applicant elected to follow pursuant to subsection (2) of this section, if such an election was made, and if not renewed in accordance with Section 4 of this regulation.

(4) If a tobacco, nicotine, or vapor product license is issued and the licensee wishes to renew it, the licensee shall file a Tobacco, Nicotine, or Vapor Product License Renewal Application in accordance with Section 4 of this regulation.

Section 4. Tobacco, Nicotine, or Vapor Product License Renewal Application. A licensee wishing to renew their license shall:

(1) Pay all fines incurred under KRS 438.305 to 438.350 prior to renewing their license;

(2) Pay the nonrefundable application fee established by KRS 438.3063(1);

(3) Pay the license fee established in KRS 438.3063(4)(a); and

(4) Complete and submit the Tobacco, Nicotine, or Vapor Product License Renewal Application form to renew their license no more than forty-five (45) days prior to its:

(a) Expiration; or

(b) Surrender date, if renewing in accordance with an election made pursuant to Section 3(2) of this regulation.

Section 5. Renewal Grace Period. If a licensee fails to renew its license by the expiration date, the department may grant one (1) extension that shall not exceed thirty (30) days from the original expiration date. The licensee shall not conduct any activity related to the sale of tobacco, nicotine, or vapor products during the extension period. A license not renewed during the thirty (30) day extension period shall not be renewed thereafter for any reason, and the licensee shall be required to apply for a new license, should they wish to engage in the sale of tobacco, nicotine, or vapor products.

Section 6. Applications for Tobacco, Nicotine, or Vapor Product Licenses Submitted Online. All tobacco, nicotine, and vapor product license application forms shall be submitted through the department's online licensing management portal located at <https://abcportal.ky.gov/BELLEExternal>.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial Tobacco, Nicotine, or Vapor Product License Application," October 2025;

(b) "Tobacco, Nicotine, or Vapor Product License Renewal Application," October 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St., Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: October 21, 2025

FILED WITH LRC: October 31, 2025

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 22, 2025, at 9:00 a.m. EST, at 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Joshua Newton, General Counsel, Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky 40601; Joshua.Newton@ky.gov.