

STATEMENT OF EMERGENCY
804 KAR 13:030E.

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 is identical to this emergency administrative regulation.

SCOTTY TRACY, Commissioner
ANDY BESHEAR, Governor

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

804 KAR 13:030E. Causes for denial of tobacco, nicotine, or vapor product license

RELATES TO: KRS 438.3063, 438.3067

STATUTORY AUTHORITY: KRS 438.340, 438.3055

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 438.3067 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.

Section 1. An application for a tobacco, nicotine, or vapor product license shall be denied if:

- (1) The applicant or the premises for which the tobacco, nicotine, or vapor product license is sought does not comply fully with all applicable statutes under KRS 438.305 and 438.350, and with the administrative regulations promulgated under 804 KAR Chapter 13;
- (2) The applicant has engaged in any activity for which revocation of a tobacco, nicotine, or vapor product license would be authorized;
- (3) The applicant has made any false material statement in its application; or
- (4) The applicant fails to pay the tobacco, nicotine, or vapor product license fee established in KRS 438.3063(4).

Section 2. An application for a tobacco, nicotine, or vapor product license may be denied for any reason that the commissioner, in the exercise of the commissioner's sound discretion, deems sufficient. Among those factors that the commissioner shall consider in the exercise of this discretion are:

- (1) Public sentiment in the area;
- (2) Number of licensed outlets in the area;
- (3) Potential for future growth;
- (4) Type of area involved; and
- (5) Financial potential of the area.

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 at 10:09 a.m.

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.