

STATEMENT OF EMERGENCY

804 KAR 13:040E

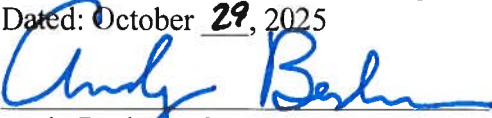
Pursuant to KRS 13A.190(1)(a)1. and 2025 Ky. Acts Ch. 78 (SB 100), this emergency amendment is being promulgated to meet an imminent threat to public health, safety, and welfare.

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 amendment to an administrative regulation will be replaced by an ordinary amendment to an administrative regulation filed concurrently. The ordinary amendment is identical to this emergency amendment.



Scotty Tracy, Commissioner
Department of Alcoholic Beverage Control
Dated: October 29, 2025



Andy Beshear, Governor
Commonwealth of Kentucky
Dated: October 29, 2025

PUBLIC PROTECTION CABINET

Department of Alcoholic Beverage Control

(New Emergency Administrative Regulation)

804 KAR 13:040E. Notice of intention to apply for tobacco, nicotine, or vapor product transitional license.

RELATES TO: KRS 438.3063, 438.3065

STATUTORY AUTHORITY: KRS 438.340, 438.3055, 438.3065

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 438.3065(1)(a)-(b) requires the purchaser of a tobacco, nicotine, or vapor product retail business to file for a permanent license and advertise by publication its intention to apply for a license. This administrative regulation is promulgated in accordance with KRS 438.3065(1)(b)2. to prescribe the form and content of this advertisement.

Section 1. Contents of Advertisement. (1) An applicant for a tobacco, nicotine, or vapor product license who purchased a tobacco, nicotine, or vapor product-licensed business shall publish to the newspaper for legal notices in the county or city in which its retail establishment will be located,

1 either in print or online, a notice of intent to apply for the license, containing the following
2 information:

3 (a) The name and address of the applicant;

4 (b) The name and address of each principal owner, partner, member, officer, and director if the
5 applicant is a partnership, limited partnership, limited liability company, corporation,
6 governmental agency, or other business entity recognized by law;

7 (c) The address of the premises for which the license is sought;

8 (d) The type of business;

9 (e) That the applicant is applying for a tobacco, nicotine, or vapor product license;

10 (f) The date that the application will be filed; and

11 (g) The following statement: "Any person may protest the approval of the license by writing the
12 Department of Alcoholic Beverage Control within thirty (30) days of the date of legal
13 publication."

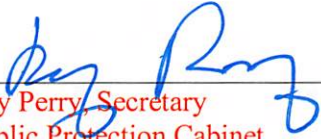
14 (2) Substantial compliance with the information listed in subsection (1) of this section shall be
15 sufficient to comply with this section.

16 Section 2. If the applicant described in Section 1(1) is also applying for alcoholic beverage or
17 cannabis-infused beverage licenses, the applicant may include the information required in the notice
18 of intention to apply for a license pursuant to KRS 243.360 in the notice required by this section.

APPROVED: 10/21/2025

A handwritten signature in blue ink, reading "Scotty Tracy", written over a horizontal line.

Scotty Tracy, Commissioner
Department of Alcoholic Beverage Control

A handwritten signature in blue ink, reading "Ray Perry", written over a horizontal line.

Ray Perry, Secretary
Public Protection Cabinet

PUBLIC HEARING AND PUBLIC 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, KY 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, KY 40601; Joshua.Newton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

804 KAR 13:040E

Contact Person: Joshua Newton

Phone: 502-782-0770

Email: Joshua.Newton@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation outlines the process for applying for a transitional tobacco, nicotine, or vapor product license when purchasing a tobacco, nicotine, or vapor product licensed business.

(b) The necessity of this administrative regulation:

KRS 438.3065(1)(a)-(b) requires the purchaser of a tobacco, nicotine, or vapor product retail business to file for a permanent license and advertise by publication its intention to apply for a license. This administrative regulation is promulgated in accordance with KRS 438.3065(1)(b)2. to prescribe the form and content of this advertisement.

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

This administrative regulation provides the required form and contents of the advertisement required by KRS 438.3065(1)(b)2.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: ABC is tasked with enforcing the tobacco, nicotine and vapor laws as it relates to approving or denying applications for licenses to sell tobacco, nicotine, and vapor products. This administrative regulation assists in effective administration of the statutes by outlining the contents and form of the advertisement required by KRS 438.3065 in order to file for a transitional tobacco, nicotine, or vapor product license.

(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. This administrative regulation could affect any number of these retailers when they attempt to sell their tobacco, nicotine, or vapor product licensed business,

and an unknown number of businesses seeking to purchase tobacco, nicotine, or vapor product licensed businesses.

(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:

The regulated businesses will be required to take no action because of this administrative regulation.

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

This administrative 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): There is no benefit of complying with this administrative regulation as it is merely informative for a business who is seeking to purchase a tobacco, nicotine, or vapor product licensed business.

(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 administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied.

FISCAL IMPACT STATEMENT

804 KAR 13:040E

Contact Person: Joshua Newton

Phone: 502-782-0770

Email: Joshua.Newton@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 438.3065, 438.340

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by KRS 438.340 and Senate Bill 100 of the 2025 Kentucky General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Alcoholic Beverage Control is the promulgating agency. No other state units, parts or divisions are affected by this administrative regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a): N/A

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will have no effect on any local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):N/A

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities will be affected by this administrative regulation. This administrative regulation will have no effect on any other regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact as it only provides the form and contents of the advertisement required to be published by businesses seeking transitional tobacco, nicotine, or vapor product licenses.

(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the administrative regulation imposes no new action on any regulated body.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact”, as defined by KRS 13A.010(13): This regulation will have no economic impact .

(b) The methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the administrative regulation imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

804 KAR 13:040E

Contact Person: Joshua Newton

Phone: 502-782-0770

Email: Joshua.Newton@ky.gov

(1) Federal statute or regulation constituting the federal mandate. N/A

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A