

**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*  
*ANDY BESHEAR, Governor*

**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

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 438.3065(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, either in print or online, a notice of intent to apply for the license, containing the following information:

- (a) The name and address of the applicant;
- (b) The name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law;
- (c) The address of the premises for which the license is sought;
- (d) The type of business;
- (e) That the applicant is applying for a tobacco, nicotine, or vapor product license;
- (f) The date that the application will be filed; and
- (g) The following statement: "Any person may protest the approval of the license by writing the Department of Alcoholic Beverage Control within thirty (30) days of the date of legal publication."

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

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

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](mailto:Joshua.Newton@ky.gov).