

Final Version: 5/7/2026
Agency Amendment
[Both Emergency and Ordinary]

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amendment After Comments)

1 804 KAR 13:010. Tobacco enforcement and administration.
2 RELATES TO: KRS Chapter 13B, 438.305 to 438.350~~[438.310, 1996 GA SB 137, EO 1996-619]~~
3 STATUTORY AUTHORITY: KRS 438.340, 438.3055~~[, EO 96-619]~~
4 NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.305~~[0]~~ to 438.350 impose penalties
5 upon tobacco, nicotine, and vapor product retailers, wholesalers, and manufacturers who violate
6 relevant statutory provisions or the department's administrative regulations related to tobacco,
7 nicotine, or vapor products. These statutes also mandate that the department enforce penalties
8 using an administrative hearing process in accordance with KRS Chapter 13B, and that the
9 department collect and report~~requires a seller of tobacco products to obtain proof of the age of a~~
10 ~~prospective buyer recipient of tobacco products if he has reason to believe the prospective buyer~~
11 ~~or recipient is under eighteen (18) years old; requires the establishment of the types of~~
12 ~~documentation accepted as proof of age, notification of the employees of a seller of tobacco~~
13 ~~products of the requirements of SB 137, administrative proceedings in the enforcement of SB 137,~~
14 ~~and the collection of]~~ statistics relating to the illegal sale to persons under the age of twenty-one
15 (21)~~[minors]~~ of tobacco products, alternative nicotine products, and vapor products, and the
16 enforcement of KRS 438.305 to 438.350~~[SB 137]~~. Specifically, KRS 438.340 authorizes the
17 department to promulgate administrative regulations necessary to implement and carry out the

1 provisions of KRS 438.305 to 438.350, and KRS 438.3055 requires the department to carry out
2 the enforcement provisions of KRS 438.305 to 438.350, including the promulgation of
3 administrative regulations that govern the sale and distribution of alternative nicotine products,
4 tobacco products, and vapor products.

5 Section 1. Definitions. (1) "Department" is defined in KRS 438.305(5)[means the Department of
6 Alcoholic Beverage Control].

7 (2) "License" means a tobacco, nicotine, or vapor product license.

8 Section 2. Administration. The department shall be the administrative agency for hearing
9 violations of KRS 438.305 to 438.350[438.340].

10 Section 3. Requests for Hearing [~~Enforcement.~~

11 ~~(1) The department shall record and investigate complaints relating to violations of KRS 438.305~~
12 ~~to 438.340.~~

13 ~~(2) The department shall prepare an annual survey from data obtained from the annual inspection~~
14 ~~directed by KRS 438.330(1). The survey shall be prepared to determine the existing level of~~
15 ~~tobacco sales to minors. A copy of the report shall be submitted to the Office of Agriculture.~~

16 ~~(3) The result of the annual survey may be inspected, copied or obtained at the office of the~~
17 ~~Department of Agriculture, Capital Plaza Tower, 7th Floor, 500 Mero Street, Frankfort, Kentucky~~
18 ~~40601, 8 a.m. to 4:30 p.m., Monday through Friday, excepting state holidays.~~

19 ~~Section 4. Procedures].~~

20 ~~(1) [A person found to be violation of KRS 438.305 to 438.340 may be cited by the department.~~
21 ~~Any administrative citation shall conform to the requirements of KRS Chapter 13B.~~

22 ~~(2)]A person or business receiving an administrative citation pursuant to KRS 438.305 to 438.350,~~
23 ~~a revocation of their license pursuant to KRS 438.3069, or a denial of their application for a license~~

1 pursuant to KRS 438.3067[438.340], may request an administrative hearing on the matter, to be
2 conducted by the department in accordance with KRS Chapter 13B[, to contest the allegation in
3 the citation. The department may, in its discretion, employ one (1) or more hearing officers to
4 conduct the administrative hearings. All administrative hearings shall be governed by KRS
5 Chapter 13B].

6 (2) A request for hearing to contest the following shall be made in writing by the person or
7 business receiving the administrative citation, revocation, or denial, or their attorney, within
8 thirty (30) days of receipt:

9 (a) An administrative citation for a violation of KRS 438.305 to 438.350;

10 (b) A license revocation pursuant to KRS 438.3069; or

11 (c) A license application denial pursuant to KRS 438.3067.

12 (3) A request for a hearing shall include:

13 (a) A copy of the administrative citation, notice of revocation, or notice of denial;

14 (b) The name, address, and contact information of the person or business that received
15 the administrative citation, revocation, or denial; and

16 (c) The name, address, and contact information of their agent for service, if that differs
17 from the information provided pursuant to paragraph (b) of this subsection.

18 (4) A request for a hearing shall be mailed to the Department of Alcoholic Beverage Control,
19 ATTN: Tobacco Hearing Request, 500 Mero Street, Frankfort, Kentucky 40601, or emailed to the
20 department at abc.legal@ky.gov.

21 (5) Upon receipt of a timely request for hearing, the department shall refer the matter to an
22 administrative hearing officer for adjudication in accordance with KRS Chapter 13B.

1 (6) If a request for hearing is not made within thirty (30) days of receipt of an administrative
2 citation, revocation, or denial, the opportunity for a hearing shall be deemed to have been waived
3 and the disciplinary action imposed shall thereby be deemed effective.

4 Section 4. Prepayment of Fines.~~[(3)]~~ A fine imposed~~[levied]~~ pursuant to an administrative citation
5 shall be prepayable within thirty (30) days of issuance of the administrative citation. A person not
6 wishing to contest the allegations in the citation may resolve the charge by making a payment in
7 the amount set forth in the administrative citation through any of the following methods:

8 (1) M~~[m]~~ailing or otherwise submitting a cashier's check, certified check, business check, or
9 money order~~[in the amount set forth in the citation,]~~ payable to the Kentucky State Treasurer, to
10 the Kentucky Department of Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky,
11 40601~~[hearing agency name and address set forth in the citation; or~~

12 (2) M~~[m]~~aking an electronic Tobacco Citation Payment on the department's online payment portal
13 at <https://abcportal.ky.gov/BELLEExternal>.

14 Section 5. License Surrender. A tobacco, nicotine, or vapor product licensee and its employees
15 shall not evade imposition of penalties or a finding of culpability for violations alleged in a citation
16 by surrender or expiration of its license. The department shall retain the authority to enforce
17 relevant provisions and penalties of KRS 438.305 to 438.350 against any individual or business
18 entity who is under investigation for or charged with a violation of those statutes, even if the
19 individual's or business entity's tobacco, nicotine, or vapor product license has been surrendered
20 or has expired by operation of law.

21 Section 6.~~[(4)]~~ Disposition of Records and Evidence~~[juvenile records]~~. (1) The department shall
22 preserve the confidentiality of all juvenile records by maintaining a separate filing system~~[, under~~
23 ~~lock and key,]~~ with access limited to the parties and their legal counsel. The department shall

1 maintain statistical summaries of case information, including date of buy, geographical location of
2 buy, name and address of retail seller, date of purchase, date of birth and gender of underage buyer,
3 and disposition of case. Statistical summaries relating to underage buyers shall not identify the
4 underage buyer by name.

5 ~~(2[5])~~ Physical property[evidence] seized as contraband property, as defined by KRS 438.305(4),
6 in the course of investigations of administrative violations of KRS 438.305 to 438.350[438.340]
7 shall be maintained by the department in a secured evidentiary storage facility and destroyed after
8 the administrative matter is resolved, unless it is found that the evidence was not used in violation
9 of the law, in which case the property[evidence] shall/will be returned to its owner.

10 (3) The disposition of contraband property and evidence shall not occur until all appeals associated
11 with the administrative matter have been exhausted.

12 **Section 7. Application Forms. (1) A tobacco, nicotine, or vapor product retailer shall initially**
13 **apply for annual tobacco, nicotine, or vapor product license by submitting the Initial Tobacco,**
14 **Nicotine, or Vapor Product License Application Form to the department.**

15 **(a) The Initial Tobacco, Nicotine, or Vapor Product License Application Form shall be**
16 **submitted with the following documents:**

17 **1. A copy of the deed or lease for the premises to be licensed if not currently on**
18 **file with the department for an alcoholic beverage license, or a certification from**
19 **the landlord or landowner stating that the premises may be used for the sale of**
20 **tobacco, nicotine, or vapor products;**

21 **2. Proof of registration with the Department of Revenue; and**

22 **3. A \$50 non-refundable application fee.**

1 (b) An electronic version of the Initial Tobacco, Nicotine, or Vapor Product License
2 Application Form may be completed and submitted through the Department's Online
3 Portal located at <https://abcportal.ky.gov/BelleExternal/>.

4 (2) A tobacco, nicotine, or vapor product retailer shall apply for a temporary tobacco, nicotine,
5 or vapor product license by submitting the Tobacco, Nicotine, or Vapor Product Temporary
6 License Application Form to the department.

7 (a) The Tobacco, Nicotine, or Vapor Product Temporary License Application Form shall
8 be submitted with proof of the occurrence and duration of the fair, festival, or other event
9 where the products will be sold.

10 (b) An electronic version of the Tobacco, Nicotine, or Vapor Product Temporary License
11 Application Form may be completed and submitted through the Department's Online
12 Portal located at <https://abcportal.ky.gov/BelleExternal/>.

13 Section 8. Batch Application Form. (1) Notwithstanding Section 7, a tobacco, nicotine, or vapor
14 product retailer may submit a Tobacco, Nicotine, or Vapor Product License Batch Application
15 Form for

16 (a) multiple tobacco, nicotine, or vapor product licenses for multiple premises, or

17 (b) a tobacco, nicotine, or vapor product license or multiple licenses for multiple
18 premises, in conjunction with one or more alcoholic beverage retail licenses.

19 (2) The Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch Application
20 Form shall be submitted with the following documents:

21 (a) A copy of the deed or lease for each premises to be licensed if not currently on file
22 with the department for an alcoholic beverage license, or a certification from the

1 landlord or landowner stating that the premises may be used for the sale of tobacco,
2 nicotine, or vapor products;

3 (b) Proof of registration with the Department of Revenue;

4 (c) Any documents required by the department for alcoholic beverage licenses for which
5 the applicant is applying.

6 (3) An electronic version of the Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product
7 License Batch Application Form may be completed and submitted through the Department's
8 Online Portal located at <https://abcportal.ky.gov/BelleExternal/>.

9 Section 9. Renewals. To renew its annual Tobacco, Nicotine or Vapor Product Licenses, a
10 licensed tobacco, nicotine, or vapor product retailer shall submit to the department

11 (1) A \$500 annual fee for each of the annual Tobacco, Nicotine, or Vapor Product licenses
12 it holds; and

13 (2) If a material change has occurred as defined in 26 RS SB 245 Section 2(2)(b),

14 (a) A Tobacco, Nicotine, or Vapor Product License Renewal Form, or

15 (b) An Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch
16 Renewal Form.

17 (3) Electronic versions of the Tobacco, Nicotine, or Vapor Product License Renewal Form, and
18 the Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product Batch Renewal Form may be
19 completed and submitted through the Department's Online Portal located at
20 <https://abcportal.ky.gov/BelleExternal/>

21 Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

22 (a) "Initial Tobacco, Nicotine, or Vapor Product License Application Form," May
23 2026;

1 (b) “Tobacco, Nicotine, or Vapor Product Temporary License Application Form,”
2 May 2026;

3 (c) “Tobacco, Nicotine, or Vapor Product License Renewal Form,” May 2026;

4 (d) “Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch
5 Application Form,” May 2026; and

6 (e) “Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch
7 Renewal Form,” May 2026.

8 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
9 the Kentucky Department of Alcoholic Beverage Control, 500 Mero St., Frankfort, Kentucky
10 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the
11 department's website, <http://www.abc.ky.gov/>.

FISCAL IMPACT STATEMENT
(UPDATED)

804 KAR 13:010

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 Chapter 13B, KRS 438.3055, 438.3067, 438.3069, 438.310, 438.312, 438.313, 438.316, 2026 Ky. Acts Ch. 70 (SB 245).

(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 SB 245 of the 2026 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 regulation amendment.

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

1. Expenditures:

For the first year: \$2,750,000.00

For subsequent years: \$2,250,000.00

2. Revenues:

For the first year: Indeterminable

For subsequent years: Indeterminable

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 regulation will have no appreciable 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): The effect on law-abiding, regulated entities—namely tobacco, nicotine, or vapor product retailers—by this amendment will be *de minimis*. Any costs for affected regulated entities were created by statute in the form of application fees, license fees, and requirements for forms.

(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 amendment to an administrative regulation has no fiscal impact as it only provides the process for paying fines or appealing citations, and for applying for tobacco, nicotine, and vapor product licenses in accordance with requirements set by statute.

(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the amendment does not create or impose 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 is anticipated to have a major economic impact. To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100) and 2026 Ky. Acts Ch. 70 (SB 245), the department will be required to employ additional staff members, resulting in an increased cost of \$2,750,000.00 for the first year, and an annual increased cost of \$2,250,000.00 to the department. A portion of those additional staff members will be dedicated—and the costs associated with their hiring will be attributed—to executing the new enforcement procedures contemplated by this administrative regulation.

(b) The methodology and resources used to reach this conclusion: The Department consulted budget analysts to perform economic analysis on the implementation and enforcement of the requirements in arriving at the need for additional staff members and consulted with all vested parties in arriving at this conclusion.