

1 AN ACT relating to tobacco, nicotine, or vapor product licensure and declaring an
2 emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS 438.305 TO 438.350 IS CREATED
5 TO READ AS FOLLOWS:

6 (1) As used in this section:

7 (a) "Pipe tobacco" means any tobacco which, because of its appearance, type,
8 packaging, or labeling, is suitable for use and likely to be offered to or
9 purchased by consumers as tobacco to be smoked in a pipe; and

10 (b) "Premium cigar" means a cigar that:

11 1. Is wrapped in whole leaf tobacco;

12 2. Contains a one hundred percent (100%) leaf tobacco binder;

13 3. Is made by manually combining the wrapper, filler, and binder;

14 4. Has no filter, tip, or nontobacco mouthpiece and is capped by hand;
15 and

16 5. Weighs more than six (6) pounds per one thousand (1,000) units.

17 (2) (a) A retailer shall notify a consumer placing an order for any tobacco
18 products, alternative nicotine products, or vapor products that the shipment
19 or delivery shall not be completed unless the recipient of the shipment or
20 delivery provides a valid identification document at the time of the shipment
21 or delivery verifying that the recipient is at least twenty-one (21) years of
22 age.

23 (b) Tobacco products shall not include premium cigars or pipe tobacco for
24 purposes of KRS 438.350.

25 (c) All tobacco product, alternative nicotine product, or vapor product
26 containers shipped or delivered to a consumer shall be conspicuously
27 labeled with the words: "CONTAINS TOBACCO OR NICOTINE

1 **PRODUCTS."**

- 2 **(3) At the time of delivery, the recipient of the shipment or delivery shall present to**
3 **the individual delivering the package a valid identification document. Prior to**
4 **transferring possession of the package, the individual delivering the package**
5 **shall visually inspect the document and verify the identity of the recipient and, by**
6 **visual examination or by using age verification technology, that the recipient is at**
7 **least twenty-one (21) years of age.**
- 8 **(4) Before transferring possession of the package, the individual delivering the**
9 **package shall obtain the signature of the recipient of the shipment or delivery.**
10 **The individual who receives and signs for the tobacco products, alternative**
11 **nicotine products, or vapor products is not required to be the consumer who**
12 **purchased the tobacco products, alternative nicotine products, or vapor products.**
- 13 **(5) A retailer or common or private carrier that fails to comply with this section**
14 **shall:**
15 **(a) For the first offense, be guilty of a violation punishable by a fine of five**
16 **hundred dollars (\$500); and**
17 **(b) For each subsequent offense, be guilty of a violation punishable by a fine of**
18 **one thousand dollars (\$1,000).**
- 19 **(6) A consumer who intentionally causes an unlawful shipment or delivery under**
20 **this section shall:**
21 **(a) For the first offense, be guilty of a violation punishable by a fine of two**
22 **hundred fifty dollars (\$250); and**
23 **(b) For each subsequent offense, be guilty of a violation punishable by a fine of**
24 **five hundred dollars (\$500).**
- 25 **The retailer and the common or private carrier shall not be liable for a violation**
26 **of this subsection.**
- 27 **(7) If a common or private carrier is unable to complete delivery under this section,**

the tobacco products, alternative nicotine products, or vapor products shall be returned to the retailer.

➔SECTION 2. A NEW SECTION OF KRS 438.305 TO 438.350 IS CREATED TO READ AS FOLLOWS:

(1) The application required in Section 5 of this Act shall contain only the following information, given under oath:

(a) The name, age, Social Security number, federal employer identification number, business address, and citizenship of each applicant;

(b) If the applicant is a partner, the name, age, Social Security number, business address, and citizenship of each partner and the name and address of the partnership;

(c) The name, age, Social Security number, business address, residence, and citizenship of each individual or partner interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, limited liability company, or other business entity recognized by law, the name, age, Social Security number, and address of each principal owner, member, officer, and director of the applicant. The department may require the names of all owners and the ownership percentage held by each;

(d) The premises to be licensed, stating the street and number, if the premises has a street number, and a description that will reasonably indicate the location of the premises;

(e) 1. Proof of occupancy, to include:

a. A copy of the lease or deed for the premises to be licensed, if not currently on file with the department under a license issued pursuant to KRS Chapter 243; or

b. Certification from a landlord or landowner stating that the

1 property can be used for the purpose in which the application
 2 has been filed for the premise to be licensed.

3 2. If a change of ownership requires a resubmission pursuant to Section
 4 5 of this Act, a copy of the revised lease or deed or certificate from a
 5 landlord or landowner for the premises to be licensed shall be
 6 included;

7 (f) Proof of registration with the Department of Revenue pursuant to KRS
 8 139.390; and

9 (g) 1. A statement that neither the applicant nor any other person referred to
 10 in this section has been convicted of:

11 a. Any misdemeanor directly or indirectly attributable to the sale of
 12 illicit substances or illegal tobacco, nicotine, or vapor products;

13 b. Any violation involving a controlled substance that is described
 14 in or classified pursuant to KRS Chapter 218A within the two (2)
 15 years immediately preceding the application;

16 c. Any felony within five (5) years from the later of the date of
 17 parole or the date of conviction; or

18 d. Knowingly providing false information to the department
 19 preceding the application.

20 2. A statement that the applicant or any other person referred to in this
 21 section has not had any license that has been issued under KRS
 22 Chapter 438 revoked for cause within two (2) years prior to the date of
 23 the application.

24 (2) (a) The renewal license form required in Section 5 of this Act shall only provide
 25 for information in the event of a material change.

26 (b) As used in this subsection, "material change" means:

27 1. A change of:

- 1 a. Ownership;
- 2 b. Lease or deed status; or
- 3 c. Business address; and
- 4 2. Any civil or criminal violations.

5 (3) If, after a license has been issued, there is a change in any of the facts required to
6 be set forth in the application, a verified supplemental statement in writing giving
7 notice of the change shall be filed with the department within ten (10) days after
8 the change.

9 (4) In giving any notice or taking any action in reference to a license, the department
10 may rely upon the information furnished in the application or in the
11 supplemental statement connected with the application as accurate and truthful.
12 The information required to be furnished in the application or supplemental
13 statement shall be deemed material in any prosecution for perjury.

14 (5) The department shall not have the authority to establish any additional
15 requirements for licensure or licensure renewal beyond those statutorily required.

16 (6) (a) Within thirty (30) days of the effective date of this Act, the department shall
17 publish and maintain on its website the required application, renewal form,
18 and instructions for a tobacco, nicotine, or vapor product license.

19 (b) The application, renewal form, and instructions shall:

- 20 1. Be public-facing;
- 21 2. Be published outside of the department's licensure portal;
- 22 3. Not require a person to log into an account for access; and
- 23 4. Have a quick link for easy access on a main tab or section of the
24 department's website.

25 ➡ Section 3. KRS 438.306 is amended to read as follows:

- 26 (1) Each retailer shall, upon organizational filing or application for certificate of
27 authority to the Secretary of State and upon its annual report, state whether it is

1 involved in the retail sale of authorized nicotine vapor products.

2 (2) The Secretary of State shall:

3 (a) Create a list of retailers that sell authorized nicotine vapor products;~~and~~

4 (b) Provide the list of retailers created under paragraph (a) of this subsection to
5 the department and the Department of Revenue on a monthly basis; and

6 (c) Prior to June 30 of each calendar year, as a part of the electronic
7 notification reminder to each business to submit its annual report, notify
8 retailers that a tobacco, nicotine, or vapor product license is required to sell
9 authorized nicotine vapor products.

10 → Section 4. KRS 438.3061 is amended to read as follows:

11 (1) A person, firm, or corporation shall not operate as a retailer selling alternative
12 nicotine products, tobacco products, or authorized nicotine vapor products in or on
13 any premises in the Commonwealth without first obtaining a tobacco, nicotine, or
14 vapor product license issued by the department.

15 (2) (a) Any person who, by himself or herself or through another, directly or
16 indirectly, violates subsection (1) of this section shall be subject to the
17 penalties in KRS 243.990(2).

18 (b) On and after November 1, 2026, the department shall confiscate all
19 alternative nicotine products, tobacco products, or authorized nicotine
20 vapor products from any person, firm, or corporation that violates
21 subsection (1) of this section.

22 → Section 5. KRS 438.3063 is amended to read as follows:

23 (1) (a) 1. Each applicant shall apply~~[application]~~ for an initial~~[a]~~ tobacco,
24 nicotine, or vapor product license on~~[shall be made in]~~ a form
25 prescribed by the department in accordance with Section 2 of this Act,
26 accompanied with a nonrefundable application fee of fifty dollars (\$50)~~]~~
27 ~~and any supporting documentation required by the department].~~

1 2. The department shall have the form published to its website within
 2 thirty (30) days of the effective date of this Act.

3 (b) The application fee shall be applied to the licensing fee if the license is issued.
 4 If no license is issued, the licensing fee required in subsection (4) of this
 5 section shall be refunded to the applicant and the application fee shall be
 6 retained by the department.

7 (2) A tobacco, nicotine, or vapor product license shall:

8 (a) Be renewed annually, accompanied with a licensure renewal form and a
 9 licensing fee required in subsection (4) of this section;

10 (b) Remain in full force and effect for one (1) year from the date of issuance
 11 unless it is surrendered by the licensee, suspended, or revoked; and

12 (c) Be posted in a conspicuous place in the premises of the business where
 13 alternative nicotine products, tobacco products, or authorized nicotine vapor
 14 products are sold.

15 (3) (a) As used in this subsection, "batch license" means to apply for or renew:

16 1. Multiple tobacco, nicotine, or vapor product licenses for multiple
 17 premises; or

18 2. A tobacco, nicotine, or vapor product license, or multiple licenses for
 19 multiple premises, in conjunction with one (1) or more licenses
 20 authorized under KRS Chapter 243.

21 (b) 1. A retailer with a license issued by the department and operating under
 22 KRS Chapter 243 may initiate the application process to obtain a
 23 tobacco, nicotine, or vapor product license on the date of its next
 24 alcohol license renewal or renew a tobacco, nicotine, or vapor product
 25 license on the date of its next alcohol license renewal.

26 2. An applicant seeking to obtain a tobacco, nicotine, or vapor product
 27 license or a licensee seeking to renew a license may batch license

1 using a singular application or renewal form pursuant to paragraph
 2 (c) of this subsection.

3 3. A licensee may batch license:

4 a. On the date of its next alcohol licensure renewal pursuant to
 5 KRS Chapter 243; or

6 b. One (1) year from the date of issuance of its tobacco, nicotine, or
 7 vapor product license.

8 4. If an applicant or licensee chooses to batch license, the fee required in
 9 subsection (4) of this section shall be multiplied by the number of
 10 premises to be licensed or premises to be renewed.

11 (c) The department shall provide a singular application option and a singular
 12 renewal form option for businesses or retailers seeking to batch license.

13 (d) A retailer or business seeking licensure may choose not to batch license and
 14 may apply for its tobacco, nicotine, or vapor product license individually on
 15 any date throughout the calendar year and renew its license one (1) year
 16 from the date of issuance.

17 (4) (a) The fee for a tobacco, nicotine, or vapor product license shall be five hundred
 18 dollars (\$500) per year for each licensed premises and the fee shall be made
 19 payable to the State Treasury.

20 (b) All of the fees paid into the State Treasury for state licenses shall be credited
 21 to a revolving trust and agency account as provided in KRS 438.337 for the
 22 department.

23 (5) (a) Prior to denial or notification of failure to renew, if the department
 24 identifies any error or omission in any application submitted for issuance or
 25 renewal of a tobacco, nicotine, or vapor product license:

26 1. The department shall notify the applicant of the error within seven (7)
 27 business days of its discovery;

1 2. The applicant shall be granted a grace period of thirty (30) days for
 2 correction; and

3 3. The department shall review the correction within seven (7) business
 4 days of the submitted correction.

5 (b) The department shall issue the license or permit within fourteen (14)
 6 business days of the date the application is complete.

7 (6) The tobacco, nicotine, or vapor product license shall not be transferred from one (1)
 8 person to another or from one (1) premises to another premises.

9 ~~(7)~~(6) (a) If a retailer has a change of ownership, the new owner shall provide
 10 written notice to the department of the change in ownership no later than
 11 fifteen (15) days prior to the transaction or sale closing, and the notice shall
 12 include:

13 1. The initial licensing application established in subsection (1) of this
 14 section; and

15 2. The licensing fee required in subsection (4) of this section.

16 (b) The department shall issue the license within fourteen (14) business days of
 17 the date the notice and application is received~~[A new tobacco, nicotine, or~~
 18 ~~vapor product license shall be required when a retailer has a change in~~
 19 ~~ownership].~~

20 ➔ Section 6. KRS 438.3067 is amended to read as follows:

21 (1) (a) Except as provided in subsections (5) and (7) of Section 5 of this Act, the
 22 commissioner shall approve or deny every application for a tobacco, nicotine,
 23 or vapor product license within fourteen (14) business days.

24 (b) If a retailer has submitted an application and the department has not issued
 25 a license or denial, or notified of failure to renew within fourteen (14)
 26 business days, a retailer shall not be subject to any penalties during or after
 27 the required fourteen (14) business days until the department has issued the

1 license or denial, or notified of failure to renew to the retailer.

2 (2) A license shall only be denied if the:

3 (a) 1. Application required in Section 5 of this Act is incomplete; and

4 2. Applicant has been given the opportunity to correct an application as
 5 required in Section 5 of this Act;

6 (b) Licensing fee required in Section 5 of this Act is not remitted with the
 7 application;

8 (c) Applicant or business owners are not twenty-one (21) years of age or older;

9 (d) Applicant or business owners have a tax delinquency due to the Department
 10 of Revenue, unless the applicant or business owners have an approved
 11 payment agreement with the Department of Revenue; or

12 (e) Applicant has committed any act for which a license would be revoked
 13 pursuant to Section 7 of this Act.

14 (3) If the application is denied, the:

15 (a) License shall not be issued;

16 (b) Applicant shall be notified of the commissioner's denial, which shall include
 17 the reason for the denial; and

18 (c) Applicant may, within thirty (30) days, appeal the denial and request an
 19 administrative hearing on the matter in accordance with KRS Chapter 13B.

20 ~~(4)(3)~~ (a) If the commissioner revokes a license pursuant to KRS 438.3069, the
 21 commissioner shall:

22 1. Notify the applicant within ten (10) days of the decision to revoke the
 23 license; and

24 2. Upon the request of a denied licensee, commence a hearing on the
 25 license revocation in accordance with KRS Chapter 13B.

26 (b) Revocation of a license subject to KRS 438.305 to 438.350, as it relates to the
 27 regulation of alternative nicotine products, tobacco products, and vapor

1 **products**, for any reason shall result in the inability of a retailer to reapply for
 2 a license for two (2) years.

3 (c) 1. A final order of the commissioner shall be appealable to the Franklin
 4 Circuit Court.

5 2. The licensee may, within thirty (30) days, appeal the final order and
 6 request an administrative hearing on the matter in accordance with KRS
 7 Chapter 13B.

8 ➡ Section 7. KRS 438.3069 is amended to read as follows:

9 A license may be revoked or suspended by the commissioner for a violation of:

10 (1) Any of the provisions of KRS 438.305 to 438.350, **as they relate to the regulation**
 11 **of alternative nicotine products, tobacco products, and vapor products, except as**
 12 **provided in Section 8 of this Act and KRS 438.312, in which the schedule of**
 13 **penalty of each respective statute shall be followed;**

14 (2) Any administrative regulation of the department relating to the regulation of the
 15 manufacture, sale, and transportation of alternative nicotine products, tobacco
 16 products, or vapor products;

17 (3) Any administrative regulation of the Department of Revenue relating to the taxation
 18 of alternative nicotine products, tobacco products, or vapor products;

19 (4) Any Act of Congress or any rule or regulation of any federal board, agency, or
 20 commission; **or**

21 (5) ~~Any of the laws, regulations, or ordinances referred to in this section when an~~
 22 ~~agent, servant, or employee of the licensee committed the violation, irrespective of~~
 23 ~~whether the licensee knew of or permitted the violation or whether the violation~~
 24 ~~was committed in disobedience of the licensee's instructions;~~

25 (6) ~~Any cause which the department in the exercise of its sound discretion deems~~
 26 ~~sufficient; or~~

27 (7) ~~Any of the reasons for which the commissioner would have been required to deny~~

1 a license if existing material facts had been known.

2 → Section 8. KRS 438.310 is amended to read as follows:

- 3 (1) ~~A[No]~~ person shall **not** sell or cause to be sold any tobacco product or alternative
4 nicotine product at retail to any person under the age of twenty-one (21), or solicit
5 any person under the age of twenty-one (21) to purchase any tobacco product or
6 alternative nicotine product at retail.
- 7 (2) Any person who sells tobacco products or alternative nicotine products at retail
8 shall cause to be posted in a conspicuous place in his or her establishment a notice
9 stating that it is illegal to sell tobacco products, alternative nicotine products, or
10 vapor products to persons under age twenty-one (21).
- 11 (3) Any person selling tobacco products, alternative nicotine products, or vapor
12 products shall require proof of age from a prospective buyer or recipient if the
13 person has reason to believe that the prospective buyer or recipient is under the age
14 of twenty-one (21).
- 15 (4) A person who violates subsection (1) or (2) of this section shall be subject to a:
- 16 (a) One hundred dollar (\$100) fine to the retail sales clerk for a first citation and a
17 notice to the owner of a retail establishment which details the violation;
- 18 (b) One hundred dollar (\$100) fine to the retail sales clerk and an additional five
19 hundred dollar (\$500) fine to the owner of a retail establishment for a second
20 citation;
- 21 (c) One hundred dollar (\$100) fine to the retail sales clerk and an additional one
22 thousand dollar (\$1,000) fine to the owner of a retail establishment for a third
23 citation; and
- 24 (d) Revocation of the tobacco, nicotine, or vapor product license upon a fourth
25 citation. Revocation for any fourth and subsequent citation within a two (2)
26 year period shall result in the inability to reapply for a license for two (2)
27 years.

1 (5) Each citation shall be specific to the premises of the retail establishment where the
2 violation occurred.

3 (6) The fine shall be imposed and collected by the department using a civil
4 enforcement procedure.

5 (7) A retailer shall be prohibited from renewing its license until all fines incurred under
6 KRS 438.305 to 438.350 as they relate to the regulation of alternative nicotine
7 products, tobacco products, and vapor products are paid.

8 ➡ Section 9. KRS 438.316 is amended to read as follows:

9 (1) A retailer of nicotine vapor products containing nicotine shall only sell authorized
10 nicotine vapor products.

11 (2) Any retailer that violates this section shall be subject to a:

12 (a) Five hundred dollar (\$500) fine to the owner of a retail establishment for a
13 first citation issued for a violation of this section;

14 (b) One thousand dollar (\$1,000) fine to the owner of a retail establishment for a
15 second or subsequent citation issued for a violation of this section; and

16 (c) Revocation of the tobacco, nicotine, or vapor product license upon a fourth
17 citation, which shall result in the inability to reapply for a tobacco, nicotine, or
18 vapor product license for two (2) years.

19 (3) Each citation shall be specific to the premises of the retail establishment where the
20 violation occurred.

21 (4) Any retailer with unpaid fines under this section that are more than sixty (60) days
22 overdue shall lose the ability to lawfully sell vapor products until the fines are paid.

23 (5) A retailer shall have an affirmative defense to a violation of selling an unauthorized
24 vapor product if the retailer can establish:

25 (a) Proof of an official material change in the status of a vapor product under
26 review by the FDA within forty-five (45) days of the issuance of the citation;

27 or

(b) Proof received under KRS 438.308(1)(b) that the product is an authorized nicotine vapor product.

➡ Section 10. KRS 438.330 is amended to read as follows:

- (1) Except as provided in KRS 438.337, the Department of Alcoholic Beverage Control and the Department of Agriculture shall carry out annually conducted random, unannounced inspections of retail establishments where tobacco products, alternative nicotine products, or vapor products are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.350 **as they relate to the regulation of alternative nicotine products, tobacco products, and vapor products**. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Pub. L. No. 102-321 and applicable federal regulations. The department and the Department of Agriculture shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of twenty-one (21) years are most likely to purchase tobacco products, alternative nicotine products, or vapor products. Persons under the age of twenty-one (21) years may be used to test compliance with the provisions of KRS 438.305 to 438.350 **as they relate to the regulation of alternative nicotine products, tobacco products, and vapor products** only if the testing is conducted under the direct supervision of the department, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The department shall prepare annually, for submission by the Governor to the secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.
- (2) The department shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

➡ Section 11. KRS 438.340 is amended to read as follows:

1 **(1)** The department and the Department of Agriculture are authorized to promulgate
 2 administrative regulations pursuant to KRS Chapter 13A as necessary to implement
 3 and carry out the provisions of KRS 438.305 to 438.350, including establishing a
 4 procedure for administering citations, issuing orders, adjusting fees, and filing
 5 appeals under this section and KRS 438.3067 for any violation of the provisions of
 6 KRS 438.305 to 438.350, order of the commissioner, or administrative regulations
 7 promulgated by the department.

8 **(2) The department shall promulgate administrative regulations relating to tobacco,**
 9 **nicotine, and vapor licensing in accordance with KRS Chapter 13A within thirty**
 10 **(30) days of the effective date of this Act.**

11 ➔Section 12. The following KRS section is repealed:

12 438.3065 Transitional license.

13 ➔Section 13. Notwithstanding any laws to the contrary, this Act shall not be
 14 construed to delay enforcement of Sections 8, 9, or 10 of this Act or KRS 438.311,
 15 438.315, or 438.3071.

16 ➔Section 14. Notwithstanding any law to the contrary, including 2026 RS SB
 17 145/EN:

18 (1) Within 60 days of the effective date of this Act, any retailer selling tobacco,
 19 nicotine, or vapor products in Kentucky that does not hold a tobacco, nicotine, or vapor
 20 product license required by this Act shall remit the initial application form and the
 21 licensing fee required in Section 5 of this Act to the department to obtain an initial
 22 license;

23 (2) If a retailer is approved, the department shall issue a license within 14
 24 business days; and

25 (3) If a retailer is licensed pursuant to subsection (1) of this section, the retailer
 26 shall renew annually on the date of issuance unless the retailer elects to renew by batch
 27 license pursuant to Section 5 of this Act.

1 ➔Section 15. Any licensee who has obtained a tobacco, nicotine, and vapor
2 product license under KRS 438.305 to 438.350 in calendar year 2025 shall have the
3 licensing fee of five hundred dollars (\$500) paid in calendar year 2025 credited to the
4 licensee's upcoming licensing fee payment for licensure renewal in calendar year 2026.
5 Licensees not seeking renewal shall not receive a refund or credit and the licensing fee
6 paid in calendar year 2025 shall be retained by the department.

7 ➔Section 16. Sections 2 to 10 of this Act shall be retroactive to January 1, 2026.

8 ➔Section 17. Whereas the proper regulation and licensing of tobacco, nicotine,
9 and vapor products are crucial for public safety and protection, an emergency is declared
10 to exist, and this Act takes effect upon its passage and approval by the Governor or upon
11 its otherwise becoming a law.