

CHAPTER 17

(HB 92)

AN ACT relating to youth smoking.

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

Section 1. KRS 438.311 is amended to read as follows:

- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member ***except if the child has been committed to the custody of the state under KRS Chapters 600 to 645***, or from an employer when required in the performance of the person's duties.
- (2) Violation of this section shall be punishable by a fine of fifty dollars (\$50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars (\$200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.
- (3) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- (4) All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 2. KRS 605.110 is amended to read as follows:

- (1)
 - (a) ***Any child committed to or in the custody of the cabinet or the Department of Juvenile Justice who is not placed in a location where smoking cessation services are provided may participate in smoking cessation services offered by local health departments or their contracted agents at no cost.***
 - (b) Unless provided otherwise, when any child committed to or in the custody of the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.
- (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.
- (3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.
 - (a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Health and Family Services, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Health and Family Services and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency

- Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Health and Family Services, Department for Community Based Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.
- (b) Teachers and other staff shall be hired on contract through a local school district or if a local school district is not willing to participate, teachers may be hired by the Kentucky Educational Collaborative for State Agency Children or a contract may be entered into with a private provider of educational services. All certified educational staff hired by the Kentucky Educational Collaborative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.
- (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:
1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
 2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;
 3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
 5. The funding for school services for state agency children authorized by KRS 158.135; and
 6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.
- (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Health and Family Services shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:
1. Provide for the development and implementation of interagency agreements that:
 - a. Define the financial responsibility of each state and local agency for providing services to state agency children;
 - b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
 2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Health and Family Services.
- (e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of

enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

- (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Health and Family Services and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Approved March 15, 2006.