

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

804 KAR 13:030. Causes for denial of tobacco, nicotine, or vapor product license

RELATES TO: KRS 438.3063, 438.3067

STATUTORY AUTHORITY: KRS 438.340, 438.3055

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 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

Section 1. An application for a tobacco, nicotine, or vapor product license shall be denied if:

- (1) The applicant or the premises for which the tobacco, nicotine, or vapor product license is sought does not comply fully with all applicable statutes under KRS 438.305 ~~to~~~~and~~ 438.350, and with the administrative regulations promulgated under 804 KAR Chapter 13;
- (2) ~~{The applicant has engaged in any activity for which revocation of a tobacco, nicotine, or vapor product license would be authorized;}~~
- ~~{(3)}~~ The applicant has **knowingly** made any false material statement in its application; or
- ~~(3)~~ ~~{(4)}~~ The applicant fails to pay the tobacco, nicotine, or vapor product license fee established in KRS 438.3063(4).

Section 2. An application for a tobacco, nicotine, or vapor product license may be denied for any reason that the commissioner, in the exercise of the commissioner's sound discretion, deems sufficient. Among those factors that the commissioner shall consider in the exercise of this discretion are:

- (1) Public sentiment in the area;
- (2) Number of licensed outlets in the area;
- (3) Potential for future growth;
- (4) Type of area involved; and
- (5) Financial potential of the area.

Section 3. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on March 9, 2026.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: March 13, 2026
FILED WITH LRC: March 13, 2026 at 11:50 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

(b) The necessity of this administrative regulation:

KRS 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This regulation outlines the reasons an application may or shall be denied and is necessary to provide information to potential applicants.

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

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 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation outlines for potential applicants the specific reasons that their application for a tobacco, nicotine or vapor product license may or shall be denied.

(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 stand alone vape/tobacco businesses. All businesses that want to sell tobacco, nicotine, or vapor products, must have a license to sell any of those products as of January 1, 2026.

(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:

Kentucky businesses must obtain a license to sell tobacco, nicotine, or vapor products by January 1, 2026. This regulation outlines for those business owners the

reasons an application for the license may be denied. This regulation does not require the entities listed to do anything.

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

This 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):

Entities wishing to sell tobacco, nicotine, or vapor products will benefit from this regulation as it specifically outlines the reasons an application for a license may be denied. This will allow an applicant to know in advance, if they are not qualified for the license.

(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 regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied?

Tiering is not applied. This regulation only informs applicants of the reasons their license application may be denied.

FISCAL IMPACT STATEMENT

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

438.3063, 438.3067; 438.340, 438.3055

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

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 regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(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 regulation will have no effect on any local entities.

(b) Estimate the following for each affected local entity identified in (4)(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 regulation. This 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 outlines the reasons for which a license may be denied.

(b) Methodology and resources used to reach this conclusion:

The only methodology used to reach this conclusion is that the 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(14):

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 regulation imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

(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.