

STATEMENT OF EMERGENCY
804 KAR 13:011E.

Pursuant to KRS 13A.190(1)(a)3., 2025 Ky. Acts Ch. 78 (SB 100), and 2026 Ky. Acts Ch. 70 (SB 245) this emergency administrative regulation is being promulgated to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. The Department of Alcoholic Beverage Control (the "Department") has issued approximately 5,500 tobacco, nicotine, or vapor product licenses. 2025 Ky. Acts Ch. 78 (SB 100), which the Governor signed into law on March 24, 2025, requires the Department to ensure the safe and reasonable regulation of tobacco, nicotine, and vapor products within the Commonwealth. 2026 Ky. Acts Ch. 70 (SB 245), which the Governor signed into law on April 10, 2026, requires the Department to prescribe and publish forms to apply for tobacco, nicotine, or vapor product licenses within 30 days of its signature. SB 245, Sections 2, 5, and 19.

SB 245 further requires any tobacco retailers not already licensed to remit applications for tobacco, nicotine, or vapor product licenses within 60 days of its signature. SB 245, Sections 15 and 19. To ensure that retailers who are mandated to apply for tobacco, nicotine, or vapor product licenses are able to do so within the statutorily required timeframe, this emergency administrative regulation is being promulgated to implement a tobacco, nicotine, or vapor product licensing, enforcement, and administrative structure as soon as possible, following consultation with the Administrative Regulation Review Subcommittee Co-Chairs, and based upon the recommendation of Legislative Research Commission staff.

This emergency administrative regulation will be replaced by an ordinary administrative regulation filed concurrently. The ordinary administrative regulation is identical to this emergency administrative regulation.

SCOTTY TRACY, Commissioner
ANDY BESHEAR, Governor

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Emergency Administrative Regulation)

804 KAR 13:011E. Tobacco, nicotine, and vapor product enforcement and administration.

RELATES TO: KRS Chapter 13B, 438.305 to 438.350

STATUTORY AUTHORITY: KRS 438.340, 438.3055

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.305 to 438.350 impose penalties upon tobacco, nicotine, and vapor product retailers, wholesalers, and manufacturers who violate relevant statutory provisions or the department's administrative regulations related to tobacco, nicotine, or vapor products. These statutes also mandate that the department enforce penalties using an administrative hearing process in accordance with KRS Chapter 13B, and that the department collect and report statistics relating to the illegal sale to persons under the age of twenty-one (21) of tobacco products, alternative nicotine products, and vapor products, and the enforcement of KRS 438.305 to 438.350. Specifically, KRS 438.340 authorizes the department to promulgate administrative regulations necessary to implement and carry out the provisions of KRS 438.305 to 438.350, and KRS 438.3055 requires the department to carry out the enforcement provisions of KRS 438.305 to 438.350, including the promulgation of administrative regulations that govern the sale and distribution of alternative nicotine products, tobacco products, and vapor products. Additionally, 2026 Ky. Acts Ch. 70 (SB 245) mandates that the department prescribe and publish application forms for tobacco, nicotine, or vapor product licenses within 30 days of its passage.

Section 1. Definitions.

- (1) "Department" is defined in KRS 438.305(5).
- (2) "License" means a tobacco, nicotine, or vapor product license.

Section 2. Administration. The department shall be the administrative agency for hearing violations of KRS 438.305 to 438.350.

Section 3. Requests for Hearing.

- (1) A person or business receiving an administrative citation pursuant to KRS 438.305 to 438.350, a revocation of their license pursuant to KRS 438.3069, or a denial of their application for a license pursuant to KRS 438.3067, may request an administrative hearing on the matter, to be conducted by the department in accordance with KRS Chapter 13B.
- (2) A request for hearing to contest the following shall be made in writing by the person or business receiving the administrative citation, revocation, or denial, or their attorney, within thirty (30) days of receipt:
 - (a) An administrative citation for a violation of KRS 438.305 to 438.350;
 - (b) A license revocation pursuant to KRS 438.3069; or
 - (c) A license application denial pursuant to KRS 438.3067.
- (3) A request for a hearing shall include:
 - (a) A copy of the administrative citation, notice of revocation, or notice of denial;
 - (b) The name, address, and contact information of the person or business that received the administrative citation, revocation, or denial; and
 - (c) The name, address, and contact information of their agent for service, if that differs from the information provided pursuant to paragraph (b) of this subsection.
- (4) A request for a hearing shall be mailed to the Department of Alcoholic Beverage Control, ATTN: Tobacco Hearing Request, 500 Mero Street, Frankfort, Kentucky 40601,

or emailed to the department at abc.legal@ky.gov.

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

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

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

(1) Mailing or otherwise submitting a cashier's check, certified check, business check, or money order payable to the Kentucky State Treasurer, to the Department of Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky 40601; or

(2) Making an electronic Tobacco Citation Payment on the department's online payment portal at <https://abcportal.ky.gov/BELLEExternal>.

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

Section 6. Disposition of Records and Evidence.

(1) The department shall preserve the confidentiality of all juvenile records by maintaining a separate filing system with access limited to the parties and their legal counsel. The department shall maintain statistical summaries of case information, including date of buy, geographical location of buy, name and address of retail seller, date of purchase, date of birth and gender of underage buyer, and disposition of case. Statistical summaries relating to underage buyers shall not identify the underage buyer by name.

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

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

Section 7. Application Forms.

(1) A tobacco, nicotine, or vapor product retailer shall initially apply for an annual tobacco, nicotine, or vapor product license by submitting the Initial Tobacco, Nicotine, or Vapor Product License Application Form to the department.

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

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

2. Proof of registration with the Department of Revenue; and
3. A \$50 non-refundable application fee.

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

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

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

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

Section 8. Batch Application Form.

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

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

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

- (a) A copy of the deed or lease for each premises to be licensed if not currently on file with the department for an alcoholic beverage license, or a certification from the landlord or landowner stating that the premises may be used for the sale of tobacco, nicotine, or vapor products;
- (b) Proof of registration with the Department of Revenue; and
- (c) Any documents required by the department for alcoholic beverage licenses for which the applicant is applying.

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

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

- (1) A \$500 annual fee for each of the annual Tobacco, Nicotine, or Vapor Product licenses it holds; and
- (2) If a material change has occurred as defined in 26 RS SB 245 Section 2(2)(b):
 - (a) A Tobacco, Nicotine, or Vapor Product License Renewal Form; or
 - (b) An Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch Renewal Form.

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

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Initial Tobacco, Nicotine, or Vapor Product License Application Form," May 2026;
 - (b) "Tobacco, Nicotine, or Vapor Product Temporary License Application Form," May 2026;

- (c) "Tobacco, Nicotine, or Vapor Product License Renewal Form," May 2026;
- (d) "Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch Application Form," May 2026; and
- (e) "Alcoholic Beverage & Tobacco, Nicotine, or Vapor Product License Batch Renewal Form," May 2026.

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

SCOTTY TRACY, Commissioner
DJ WASSON, Secretary

APPROVED BY AGENCY: May 15, 2026

FILED WITH LRC: May 15, 2026 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this emergency administrative regulation shall be held on June 25, 2026 at 10:00 EDT, 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 June 30, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed emergency 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.