

438.316 Prohibition on sale of unauthorized nicotine vapor products -- Affirmative defense -- Penalties.

- (1) A retailer of nicotine vapor products shall only sell authorized nicotine vapor products.
- (2) Any retailer that violates this section shall be subject to a:
 - (a) Five hundred dollar (\$500) fine to the owner of a retail establishment for a first citation issued for a violation of this section;
 - (b) One thousand dollar (\$1,000) fine to the owner of a retail establishment for a second or subsequent citation issued for a violation of this section; and
 - (c) Revocation of the tobacco, nicotine, or vapor product license upon a fourth citation, which shall result in the inability to reapply for a tobacco, nicotine, or vapor product license for two (2) years.
- (3) Each citation shall be specific to the premises of the retail establishment where the violation occurred.
- (4) Any retailer with unpaid fines under this section that are more than sixty (60) days overdue shall lose the ability to lawfully sell vapor products until the fines are paid.
- (5) A retailer shall have an affirmative defense to a violation of selling an unauthorized vapor product if the retailer can establish:
 - (a) Proof of an official material change in the status of a vapor product under review by the FDA within forty-five (45) days of the issuance of the citation; or
 - (b) Proof received under KRS 438.308(1)(b) that the product is an authorized nicotine vapor product.

Effective: March 24, 2025

History: Amended 2025 Ky. Acts ch. 78, sec. 15, effective March 24, 2025. -- Created 2024 Ky. Acts ch. 111, sec. 7, effective January 1, 2025.