

438.312 Prohibition on retailers distributing authorized nicotine vapor products to any person under age 21 -- Affirmative defense -- Penalties.

- (1) A retailer shall not sell, give away, or distribute an authorized nicotine vapor product or tobacco product to any person under twenty-one (21) years of age. A retailer who sells a tobacco product to a person under twenty-one (21) years of age shall be subject to the penalties listed in KRS 438.310(4).
- (2)
 - (a) A retailer shall have an affirmative defense to a violation of subsection (1) of this section if the sale was induced by the use of false, fraudulent, or altered identification papers or other documents.
 - (b) Evidence to support an affirmative defense under this subsection may be introduced either in mitigation of the violation or as a defense to the violation itself.
- (3) Any retailer that violates subsection (1) of this section regarding authorized nicotine vapor products shall be subject to a:
 - (a) One hundred dollar (\$100) fine to the retail sales clerk for a first citation and a notice to the owner of a retail establishment which details the violation;
 - (b) One hundred dollar (\$100) fine to the retail sales clerk and an additional five hundred dollar (\$500) fine to the owner of a retail establishment for a second citation;
 - (c) One hundred dollar (\$100) fine to the retail sales clerk and an additional one thousand dollar (\$1,000) fine to the owner of a retail establishment for a third citation; and
 - (d) On or after July 1, 2026, revocation of the tobacco, nicotine, or vapor product license upon a fourth citation. Revocation for any fourth and subsequent citation within a two (2) year period shall result in the inability to reapply for a license for two (2) years.
- (4) Each citation shall be specific to the premises of the retail establishment where the violation occurred.
- (5) 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.

Effective: March 13, 2026

History: Amended 2026 Ky. Acts ch. 3, sec. 9, effective March 13, 2026. -- Amended 2025 Ky. Acts ch. 78, sec. 14, effective March 24, 2025. -- Created 2024 Ky. Acts ch. 111, sec. 6, effective January 1, 2025.

Legislative Research Commission Note (3/13/2026). 2026 Ky. Acts ch. 3, sec. 13, reads as follows:

"The amendments to KRS 438.3061, 438.3063, 438.3065, 438.3067, 438.3069, 438.310, 438.312, 438.316, and 438.337 contained in Sections 3 to 11 of this Act shall be retroactive to January 1, 2026."