

1 AN ACT prohibiting tobacco use on school property.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "tobacco use" or "use of a tobacco product" means:*

6 *(a) The inhaling, exhaling, burning, or carrying of any lighted or heated cigar,*
7 *cigarette, hookah, pipe, plant, or any other lighted or heated tobacco*
8 *product or other material intended for inhalation, in any manner or any*
9 *form;*

10 *(b) The use of an electronic cigarette or an e-cigarette or a vaping device,*
11 *which creates a vapor, aerosol, or mist in any manner or in any form,*
12 *including alternative nicotine products or vapor products as defined in KRS*
13 *438.305;*

14 *(c) The use of any oral smoking device for the purpose of circumventing the*
15 *prohibition of tobacco use in this section; or*

16 *(d) The consumption or other use of a tobacco product.*

17 *(2) A person shall not use a tobacco product in or on the campus of an elementary,*
18 *middle, or high school.*

19 *(3) (a) Students, school personnel, or visitors shall not use a tobacco product on or*
20 *in property or vehicles that are owned, operated, leased, or contracted for*
21 *use by a local school board.*

22 *(b) A person affiliated with a school shall not use a tobacco product while*
23 *attending that school's sponsored trips or activities.*

24 *(4) Tobacco use in violation of subsection (2) or (3) of this section or school policies*
25 *adopted pursuant to subsection (5) of this section shall be subject to penalties set*
26 *forth by the local school board, but shall not form the basis of a school or state*
27 *action resulting in a penalty of:*

1 (a) Incarceration of a student;

2 (b) Expulsion of a student;

3 (c) Suspension of a student for longer than five (5) days;

4 (d) A status offense against a student; or

5 (e) A public offense action alleging a violation of KRS 161.190.

6 (5) (a) By the 2018-2019 school year, local school boards in consultation with the
7 state Department of Education shall implement this section by adopting and
8 enforcing written comprehensive policies that prohibit tobacco use in school
9 buildings and facilities and on school campuses.

10 (b) The written policies shall include:

11 1. Adequate notice to students, school personnel, parents, and the public
12 of the new policies;

13 2. A requirement to post signage, including the universal "No Smoking"
14 sign, on affected school campuses and school board property that
15 clearly prohibit at all times the use of a tobacco product by any person
16 in and on the property; and

17 3. Requirements that school personnel enforce the policies.

18 (6) Nothing in this section shall be interpreted or construed to:

19 (a) Permit use of a tobacco product where it is otherwise restricted by this
20 section, other state or federal law, administrative regulation, or executive
21 order;

22 (b) Prevent a local government from adopting local ordinances or regulations
23 relating to use of a tobacco product in public places, places of employment,
24 and nonenclosed areas that are more restrictive than this section; or

25 (c) Repeal any existing local ordinances or regulations that provide restrictions
26 on use of a tobacco product in addition to those provided in this section.

27 ➔Section 2. The following KRS section is repealed:

- 1 438.050 Smoking on school premises -- Exception.