

1 AN ACT relating to products that contain nicotine.

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

3 ➔Section 1. KRS 438.345 is repealed, reenacted as a new section of KRS Chapter
4 158, and amended to read as follows:

5 (1) As used in this section:

6 (a) "Alternative nicotine product" has the same meaning as in KRS 438.305;

7 (b) "Tobacco product" has the same meaning as in KRS 438.305; and

8 (c) "Vapor product" has the same meaning as in KRS 438.305.

9 (2) The use of any tobacco product, alternative nicotine product, or vapor product:

10 (a) Shall be prohibited for all persons and at all times on or in all property,
11 including any vehicle, that is owned, operated, leased, or contracted for use by
12 a local board of education;

13 (b) Shall be prohibited for all students while attending or participating in any
14 school-related student trip or student activity; and

15 (c) Shall be prohibited for school district employees, volunteers, and all other
16 individuals affiliated with a school while the user is attending or participating
17 in any school-related student trip or student activity and is in the presence of a
18 student or students.

19 (3) ~~On or before July 1, 2020,~~ Each local board of education shall implement this
20 section by adopting written policies that prohibit the use of tobacco products,
21 alternative nicotine products, and vapor products pursuant to this section. The
22 policies shall provide for:

23 (a) ***The distribution of evidence-based, age-appropriate nicotine prevention and***
24 ***cessation material to all students of the district at the beginning of each***
25 ***school year;***

26 (b) ***Access to evidence-based, age-appropriate nicotine prevention and cessation***
27 ***material throughout the school year for all students of the district;***

1 (c) Adequate notice regarding the policy to be provided to students, parents and
2 guardians, school employees, and the general public;

3 ~~(d)(b)~~ A requirement to post signage on or in all property, including any
4 vehicle, that is owned, operated, leased, or contracted for use by a local board
5 of education, clearly stating that use of tobacco products, alternative nicotine
6 products, and vapor products is prohibited at all times and by all persons on or
7 in the property; and

8 ~~(e)(c)~~ A requirement that school employees enforce the policies.

9 (4) (a) A person who violates~~[in violation of]~~ subsection (2) of this section, or
10 policies adopted by a local board of education pursuant to subsection (3) of
11 this section, shall be subject to penalties as set forth by the local board of
12 education.

13 (b) In the district's code of acceptable behavior and discipline formulated under
14 KRS 158.148(5), each local board of education shall include a policy which,
15 at a minimum, provides that if a student under the age of twenty-one (21)
16 violates subsection (2) of this section, then the district will confiscate the
17 alternative nicotine products, tobacco products, or vapor products and:

18 1. For the first incident, the school counselor or other school-based
19 mental health services provider shall provide to the parent or guardian
20 and the student evidence-based, age-appropriate nicotine cessation
21 information to include but not be limited to materials, programs, and
22 referrals for treatment;

23 2. A second incident shall result in providing information as required in
24 subparagraph 1. of this paragraph and disciplinary action as
25 determined by the board and included in the district's code of
26 acceptable behavior and discipline; and

27 3. The third and subsequent incidents shall result in an in-school or out-

1 *of-school suspension of that student. The school shall provide the*
2 *opportunity for a student to complete an evidence-based, age-*
3 *appropriate nicotine education program during an in-school*
4 *suspension.*

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

6 (a) Permit use of a tobacco product, alternative nicotine product, or vapor
7 product, where it is otherwise restricted by this section, other state or federal
8 law, administrative regulation, or executive order;

9 (b) Prevent a local board of education or any other local governmental entity from
10 adopting local ordinances, regulations, or policies relating to use of a tobacco
11 product, alternative nicotine product, or a vapor product, in public places of
12 employment, and nonenclosed areas, that are more restrictive than what is
13 provided for in this section; or

14 (c) Repeal any existing local ordinances, regulations, or policies that provide
15 restrictions on the use of a tobacco product, alternative nicotine product, or
16 vapor product, in addition to those provided for in this section.

17 (6) *By August 1, 2024, the department, after consultation with the Cabinet for Health*
18 *and Family Services, shall post on its website nicotine awareness information to*
19 *include but not be limited to the various types of products containing nicotine, the*
20 *health issues associated with nicotine, and a list of evidence-based cessation*
21 *programs available to school districts.*

22 (7) *The department, regional educational cooperatives, and local boards of education*
23 *may identify and apply for grant opportunities relating to nicotine usage,*
24 *including but not limited to nicotine cessation, vaping, and tobacco products*
25 *containing nicotine, and the health consequences of the use of nicotine products.*

26 (8) *No later than August 1 of each year, each local board of education shall submit a*
27 *report to the department that includes:*

- 1 (a) The number of behavior incidents for each product defined in subsection
2 (1) of this section, listed by school and grade; and
3 (b) The number of incidents in paragraph (a) of this subsection for which
4 medical intervention was provided, listed by school, grade, and product.
5 (9) No later than September 1 of each year, the department shall submit a report to
6 the Legislative Research Commission for referral to the Interim Joint Committee
7 on Education that compiles all of the data required in subsection (8) of this
8 section ~~[Each local board of education may choose, up to three (3) years after June~~
9 ~~27, 2019, to opt out of subsections (2) to (4) of this section].~~