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KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2025 REGULAR SESSION

Amend printed copy of **SB 100/SCS 1**

On page 7, line 20, delete "17" and insert in lieu thereof: "18"; and

Starting on page 15, line 3, and continuing to page 16, line 18, delete Section 14 in its entirety and insert the following in lieu thereof:

"➔Section 14. KRS 438.316 is amended to read as follows:

- (1) A retailer shall not sell an unauthorized vapor product to any person.
- (2) Except as provided in subsection (3) of this section, any retailer selling vapor products shall obtain from the manufacturer an applicable safe harbor certification and shall maintain a copy of the certification at the physical location where the vapor product is being sold.
- (3) ~~[A retailer is not required to obtain a safe harbor certification for vapor products if those products were purchased from a Kentucky licensed resident wholesaler.~~
- (4) ~~[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;
- (c) 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
- (d) 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

Amendment No. SFA 4

Rep. Sen. Christian McDaniel

Committee Amendment

Signed:

Floor Amendment

LRC Drafter:

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

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*vapor product license for two (2) years*~~]~~

~~(a) Subject to a fine of:~~

- ~~1. One thousand dollars (\$1,000) for the first citation issued for a violation of this section; and~~
- ~~2. Five thousand dollars (\$5,000) for a second or subsequent citation issued for a violation of this section; and~~

~~(b) Placed in the tobacco noncompliance database and reporting system and lose the ability to lawfully sell vapor products for one (1) year for any third or subsequent citation issued for a violation within a two (2) year period].~~

**(4) Each citation shall be specific to the premises of the retail establishment where the violation occurred.**

~~(5) [A retailer in the tobacco noncompliance database and reporting system that sells vapor products that are unauthorized vapor products shall be subject to a fine of ten thousand dollars (\$10,000) per unlawful transaction.~~

~~(6) ]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.~~

~~**(6)**[(7)] 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) A safe harbor certification for the vapor product exists onsite at the retail location at the time the citation was issued.~~

**(7) This section shall not apply to retailers of vapor products that are not intended for resale in this state.**

**➔SECTION 15. A NEW SECTION OF KRS 438.305 TO 438.350 IS CREATED TO**

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READ AS FOLLOWS:

- (1) As used in this section, "nitrous oxide" means any of the following substances:**
- (a) N<sub>2</sub>O;**
  - (b) Dinitrogen monoxide;**
  - (c) Dinitrogen oxide;**
  - (d) Nitrogen oxide;**
  - (e) Butyl nitrite;**
  - (f) Isobutyl nitrite;**
  - (g) Secondary butyl nitrite;**
  - (h) Tertiary butyl nitrite; or**
  - (i) Laughing gas.**
- (2) A retail establishment shall not sell nitrous oxide to any person under the age of twenty-one (21).**
- (3) Any retail establishment that possesses a tobacco, nicotine, or vapor product license shall not sell, distribute, give away, or cause to be sold any device, canister, tank, or receptacle that either exclusively contains nitrous oxide or exclusively contains a chemical compound mixed with nitrous oxide.**
- (4) This section shall not apply to:**
- (a) The sale or distribution of medical gases that contain nitrous oxide by a wholesaler licensed by the Kentucky Board of Pharmacy;**
  - (b) Any person who administers nitrous oxide for the purpose of providing medical or dental care, if administered by a dentist or dental hygienist in accordance with KRS 313.060;**
  - (c) The possession or use of nitrous oxide substances by a manufacturer as part of a manufacturing process or industrial operation;**

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- (d) The possession, use, or sale of nitrous oxide as a propellant in food preparation for restaurant, food service, or houseware products; or**
- (e) The possession, use, or sale of nitrous oxide for automotive purposes.**
- (5) Any retail establishment licensed by the department that violates this section shall be subject to:**
- (a) A two thousand five hundred dollar (\$2,500) fine to the owner of a retail establishment for a first citation issued for a violation of this section;**
- (b) A five thousand dollar (\$5,000) fine to the owner of a retail establishment for a second citation issued for a violation of this section; and**
- (c) Up to thirty (30) days in jail for a third citation issued for a violation of this section.**
- (6) Each citation shall be specific to the premises of the retail establishment where the violation occurred.";** and
- Renumber subsequent sections accordingly; and
- On page 16, line 20, delete "**(17)**" and insert in lieu thereof: "**(18)**"; and
- On page 17, line 18, after "**Section 10**", insert the following: "**or 15**"; and
- On page 19, line 6, delete "**Sections 15 and 16**" and insert the following in lieu thereof: "**Sections 16 and 17**".