

SENATE
 KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
 2025 REGULAR SESSION

Unofficial Document

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

Beginning on page 5, line 26, and continuing to page 6, line 7, delete all new language and insert in lieu thereof:

"(1) (a) A person, firm, or corporation shall not operate as a retailer selling alternative nicotine products, tobacco products, or authorized vapor products in or on any premises in the Commonwealth without first obtaining a tobacco, nicotine, or vapor product license issued by the department. This subsection shall not apply to online transactions."; and

On page 6, line 9, delete "**I**"; and

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~~

Amendment No. SFA 5

Rep. Sen. Jimmy Higdon

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

Not for Filing

~~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;

(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~~]~~

~~(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 READ AS FOLLOWS:

(1) As used in this section, "nitrous oxide" means any of the following substances:

- (a) N₂O;**
- (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;**
- (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".