AN ACT relating to the Department of Alcoholic Beverage Control and declaring an emergency.

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

➔Section 1. KRS 243.033 is amended to read as follows:

(1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.

(2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall~~[. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant]~~. The alcoholic beverage stock of the caterer shall be kept under lock and key~~[at the licensed premises]~~ during the time that the alcoholic beverages are not being used~~[in conjunction with a catered function]~~.

(3) The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;

(b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages~~[for a customer and the customer's guests,]~~ in:

1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food~~[at any catered event]~~ are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;

2. Precincts established as moist territory if the receipts from the catering of food~~[at any catered event]~~ are at least ten percent (10%) of the gross

receipts from the catering of both food and alcoholic beverages. This subparagraph shall supersede any conflicting provisions of KRS Chapters 241 to 244;

3. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food~~[at any catered event]~~ are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or

4. All other wet territory if the receipts from the catering of food~~[at any catered event]~~ are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;

(c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for ***catering services***~~[a catered event]~~; and

(d) Receive payment for alcoholic beverages served~~[at a catered event]~~ on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a charitable or nonprofit fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.

(5)~~[A caterer licensee shall not cater alcoholic beverages on Sunday except in territory in which the Sunday sale of alcoholic beverages is permitted under the provisions of KRS 244.290 and 244.480.~~

~~(6)]~~ The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at

which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(6)~~[(7)]~~ The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.

(7)~~[(8)]~~ All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.

(8)~~[(9)]~~ The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

(9)~~[(10)]~~ Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic beverages to guests who are twenty-one (21) years of age or older at a private event in dry territory if:

(a) The alcoholic beverages were lawfully purchased in a wet or moist territory:

1. By an individual; or

2. At the caterer's licensed premises in wet or moist territory; and

(b) The alcoholic beverages are not sold in dry territory to guests at the private residence or private event regardless of whether the venue is a public place.

(10) Notwithstanding any other provision of state law, the department shall not impose or attempt to enforce the following against a caterer:

(a) Any minimum number of customers, consumers, or other persons required at an event for a caterer to cater that event; and

(b) Any limit on the number of events a caterer may cater in any time period.

➔Section 2. KRS 243.090 is amended to read as follows:

(1) ***(a)*** All licenses issued by the department, except special event licenses, temporary licenses, or licenses listed in subsection (5) of this section, shall be valid for a period of no more than a year.

(b) The board shall promulgate administrative regulations establishing the year-

round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage Control.

(c) For any application for a license issued by the department through its authority under this chapter or KRS Chapter 438, the license shall be approved or denied by the department no later than forty-five (45) days after the department's receipt of the application.

(2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses issued after January 1, 2017, by a local administrator shall be valid for a period of no more than a year and shall be renewable upon the date established by the department for the expiration of state licenses issued for premises located in that county or city. During the first year following July 15, 2016, if the new date for renewal for the licensee does not occur on the date established by the department for the expiration of the licensee's state license, the local administrator shall either:

1. Prorate the cost of the renewed license by proportionally reducing the cost of the renewed license if the new date for the renewal occurs prior to the expiration of a previous license; or
2. Provide a prorated provisional local license to cover any period of time between the expiration of the previous license and the new date for renewal if the new date for renewal occurs after the expiration of the licensee's previous license.

(b) Paragraph (a) of this subsection shall not apply to licenses issued by a consolidated local government, special event licenses, temporary licenses, or licenses listed in subsection (5) of this section.

(3) When any person applies for a new license authorized under KRS Chapters 241 to 244, the person shall be charged, if the license is issued, the full fee for the

respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(4) The renewal by the department of any license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

(5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.

(6) The department may deny license renewal if the licensee is a delinquent taxpayer as defined in KRS 131.1815.

➔Section 3. KRS 438.3061 is amended to read as follows:

(1) ***On or after July 1, 2026,*** a person, firm, or corporation shall not operate as a retailer selling alternative nicotine products, tobacco products, or authorized nicotine vapor products in or on any premises in the Commonwealth without first obtaining a tobacco, nicotine, or vapor product license issued by the department.

(2) Any person who, by himself or herself or through another, directly or indirectly, violates subsection (1) of this section shall be subject to the penalties in KRS 243.990(2).

➔Section 4. KRS 438.3063 is amended to read as follows:

(1) ***On or after July 1, 2026,*** each application for a tobacco, nicotine, or vapor product license shall be made in a form prescribed by the department, accompanied with a nonrefundable application fee of fifty dollars ($50) and any supporting documentation required by the department. The application fee shall be applied to the licensing fee if the license is issued. If no license is issued, the application fee

shall be retained by the department.

(2) A tobacco, nicotine, or vapor product license shall:

(a) Be renewed annually;

(b) Remain in full force and effect for one (1) year from the date of issuance unless it is surrendered by the licensee, suspended, or revoked; and

(c) Be posted in a conspicuous place in the premises of the business where alternative nicotine products, tobacco products, or authorized nicotine vapor products are sold.

(3) A retailer with a license issued by the department and operating under KRS Chapter 243 may initiate the application process to obtain a tobacco, nicotine, or vapor product license on the date of its next renewal.

(4) (a) The fee for a tobacco, nicotine, or vapor product license shall be five hundred dollars ($500) per year for each licensed premises and the fee shall be made payable to the State Treasury.

(b) All of the fees paid into the State Treasury for state licenses shall be credited to a revolving trust and agency account as provided in KRS 438.337 for the department.

(5) The tobacco, nicotine, or vapor product license shall not be transferred from one (1) person to another or from one (1) premises to another premises.

(6) A new tobacco, nicotine, or vapor product license shall be required when a retailer has a change in ownership.

➔Section 5. KRS 438.3065 is amended to read as follows:

(1) ***On or after July 1, 2026,*** a transitional license may be issued by the commissioner during the time a transfer of an ongoing business is being processed under the following conditions:

(a) The purchaser shall file an application for a permanent license pursuant to KRS 438.3063 with the department;

(b) 1. The purchaser shall, before applying for a license, advertise by publication its intention to apply for a license in a newspaper, online, or in print, in the county or city in which the retail establishment is located.

2. The department shall prescribe the form and content of the advertisement by promulgation of administrative regulations in accordance with KRS Chapter 13A.

3. The advertisement shall contain the following statement: "Any person may protest the approval of the license by writing the Department of Alcoholic Beverage Control within thirty (30) days of the date of legal publication."

4. Any protest received after the thirty (30) day period shall be considered expired and shall not be considered a valid legal protest by the department; and

(c) The purchaser shall pay all application and licensing fees for the permanent license established under KRS 438.3063.

(2) If the requirements in subsection (1) of this section are met, the commissioner may issue a transitional license with a term of up to sixty (60) days, plus one (1) thirty (30) day renewal license, to the purchaser for a nonrefundable processing fee of sixty dollars ($60). All transitional licenses immediately expire upon the issuance to the purchaser of one (1) or more permanent licenses.

(3) Upon completion of the sale of the business, the purchaser shall not operate the business on the previous retailer's license.

(4) The transitional license shall not be transferable or used for an application to move a business from one (1) location to another location.

(5) The transitional license shall entitle the holder to the same privileges and restrictions of the permanent license or licenses for which the holder applied under subsection (1)(a) of this section.

➔Section 6. KRS 438.3067 is amended to read as follows:

(1) ***On or after July 1, 2026,*** the commissioner shall approve or deny every application for a tobacco, nicotine, or vapor product license.

(2) If the application is denied, the:

(a) License shall not be issued;

(b) Applicant shall be notified of the commissioner's denial, which shall include the reason for the denial; and

(c) Applicant may, within thirty (30) days, appeal the denial and request an administrative hearing on the matter in accordance with KRS Chapter 13B.

(3) (a) If the commissioner revokes a license pursuant to KRS 438.3069, the commissioner shall:

1. Notify the applicant within ten (10) days of the decision to revoke the license; and

2. Upon the request of a denied licensee, commence a hearing on the license revocation in accordance with KRS Chapter 13B.

(b) Revocation of a license subject to KRS 438.305 to 438.350 for any reason shall result in the inability of a retailer to reapply for a license for two (2) years.

(c) 1. A final order of the commissioner shall be appealable to the Franklin Circuit Court.

2. The licensee may, within thirty (30) days, appeal the final order and request an administrative hearing on the matter in accordance with KRS Chapter 13B.

➔Section 7. KRS 438.3069 is amended to read as follows:

On or after July 1, 2026, a license may be revoked or suspended by the commissioner for a violation of:

(1) Any of the provisions of KRS 438.305 to 438.350;

(2) Any administrative regulation of the department relating to the regulation of the manufacture, sale, and transportation of alternative nicotine products, tobacco products, or vapor products;

(3) Any administrative regulation of the Department of Revenue relating to the taxation of alternative nicotine products, tobacco products, or vapor products;

(4) Any Act of Congress or any rule or regulation of any federal board, agency, or commission;

(5) Any of the laws, regulations, or ordinances referred to in this section when an agent, servant, or employee of the licensee committed the violation, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of the licensee's instructions;

(6) Any cause which the department in the exercise of its sound discretion deems sufficient; or

(7) Any of the reasons for which the commissioner would have been required to deny a license if existing material facts had been known.

➔Section 8. KRS 438.310 is amended to read as follows:

(1) ***A***~~[No]~~ person shall ***not*** sell or cause to be sold any tobacco product or alternative nicotine product at retail to any person under the age of twenty-one (21), or solicit any person under the age of twenty-one (21) to purchase any tobacco product or alternative nicotine product at retail.

(2) Any person who sells tobacco products or alternative nicotine products at retail shall cause to be posted in a conspicuous place in his or her establishment a notice stating that it is illegal to sell tobacco products, alternative nicotine products, or vapor products to persons under age twenty-one (21).

(3) Any person selling tobacco products, alternative nicotine products, or vapor products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age

of twenty-one (21).

(4) A person who violates subsection (1) or (2) of this section 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.

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

(6) The fine shall be imposed and collected by the department using a civil enforcement procedure.

(7) A retailer shall be prohibited from renewing its license until all fines incurred under KRS 438.305 to 438.350 are paid.

➔Section 9. KRS 438.312 is amended to read as follows:

(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.

➔Section 10. KRS 438.316 is amended to read as follows:

(1) A retailer of nicotine vapor products shall only sell authorized nicotine vapor products.

(2) 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) ***On or after July 1, 2026,*** 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.

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

(4) 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.

(5) 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) Proof received under KRS 438.308(1)(b) that the product is an authorized nicotine vapor product.

➔Section 11. KRS 438.337 is amended to read as follows:

(1) The department shall carry out the enforcement provisions of KRS 438.305 to 438.350.

(2) (a) 1. The department shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Finance and Administration Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140.

2. One hundred percent (100%) of the license and application fees imposed by KRS 438.3063 unless the license is denied shall be deposited in a trust and agency account created in the State Treasury. If no license is

issued, the application fee shall be retained by the department in accordance with KRS 438.3063.

(b) One hundred percent (100%) of the fines collected under KRS 438.305 to 438.350 shall be retained by the department.

(c) The department shall keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.350 to offset the costs of enforcement. The remaining fifty percent (50%) of funds shall go to a youth program administered by the Department for Public Health directed at targeting and educating youth on the dangers of tobacco products, alternative nicotine products, and vapor products.

(3) The department shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The department shall devise a plan and timeframe for enforcement to determine by random inspection if the percentage of retailers, wholesalers, or distributors making illegal sales to persons under the age of twenty-one (21) does or does not exceed federal guidelines preventing tobacco sales to persons under the age of twenty-one (21).

(5) (a) The department shall investigate the information provided in each application for a tobacco, nicotine, or vapor product license.

(b) Notwithstanding KRS 438.330 and 438.331, if the tobacco, nicotine, or vapor product license is approved, random inspections or compliance checks of the licensee shall be conducted not less than once annually during normal business hours or as deemed appropriate by the commissioner.

(6) ***On or after July 1, 2026,*** the department shall, on the first day of each month, create, update, and publish on its website a list of retail establishments that possess a tobacco, nicotine, or vapor product license.

➔Section 12. 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.

➔Section 13. Whereas the proper regulation and licensing of alcoholic beverages and tobacco, nicotine, and vapor products are crucial for public safety and protection, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.