

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. A NEW SECTION OF KRS 438.305 TO 438.340 IS CREATED
4 TO READ AS FOLLOWS:

5 (1) Before any retailer, sells, or causes to be sold any vapor product at retail in this
6 state, the retailer shall apply for, and be issued, a vapor retail license from the
7 Department of Alcoholic Beverage Control.

8 (2) The Department for Alcoholic Beverage Control shall create a vapor retail
9 license, application fee, initial licensure fee, and licensure renewal fee allowing a
10 retailer to sell or cause to be sold any vapor products in this state.

11 (3) A vapor retail license shall authorize the retailer to purchase, receive, possess,
12 and sell vapor products at retail.

13 (4) Licensure application fees, initial licensing fees, and licensure renewal fees
14 collected by the Department of Alcoholic Beverage Control shall be retained by
15 the department for administrative purposes.

16 (5) A retailer shall be required to apply for and obtain from the Department of
17 Alcoholic Beverage Control a separate license for each location it intends to
18 operate.

19 (6) The Department of Alcoholic Beverage Control may promulgate administrative
20 regulations in accordance with KRS Chapter 13A to carry out this section.

21 ➔Section 2. KRS 438.310 is amended to read as follows:

22 (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine
23 product, or vapor product at retail to any person under the age of twenty-one (21),
24 or solicit any person under the age of twenty-one (21) to purchase any tobacco
25 product, alternative nicotine product, or vapor product at retail.

26 (2) Any person who sells tobacco products, alternative nicotine products, or vapor
27 products at retail shall cause to be posted in a conspicuous place in his or her

1 establishment a notice stating that it is illegal to sell tobacco products, alternative
2 nicotine products, or vapor products to persons under age twenty-one (21).

3 (3) Any person selling tobacco products, alternative nicotine products, or vapor
4 products shall require proof of age from a prospective buyer or recipient if the
5 person has reason to believe that the prospective buyer or recipient is under the age
6 of twenty-one (21).

7 (4) A person who violates subsection (1) of this section shall be subject to a fine of
8 not less than one thousand five hundred dollars (\$1,500) nor more than two
9 thousand dollars (\$2,000) for a first violation and a fine of not less than two
10 thousand five hundred dollars (\$2,500) nor more than three thousand dollars
11 (\$3,000) for any subsequent violation. The fine shall be administered by the
12 Department of Alcoholic Beverage Control using a civil enforcement procedure.

13 (5) A person who violates subsection~~[(1) or]~~ (2) of this section shall be subject to a
14 fine of not less than one hundred dollars (\$100) nor more than five hundred dollars
15 (\$500) for a first violation and a fine of not less than five hundred dollars (\$500)
16 nor more than one thousand dollars (\$1,000) for any subsequent violation. The fine
17 shall be administered by the Department of Alcoholic Beverage Control using a
18 civil enforcement procedure.

19 (6) All peace officers with general law enforcement authority and employees of the
20 Department of Alcoholic Beverage Control may issue a uniform citation, but may
21 not make an arrest or take a child into custody, for a violation of this section.

22 ➔Section 3. KRS 438.311 is amended to read as follows:

23 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has
24 not attained the age of twenty-one (21) years to purchase or accept receipt of or to
25 attempt to purchase or accept receipt of a tobacco product, alternative nicotine
26 product, or vapor product, or to present or offer to any person any purported proof
27 of age which is false, fraudulent, or not actually his or her own, for the purpose of

1 purchasing or receiving any tobacco product, alternative nicotine product, or vapor
2 product. It shall not be unlawful for such a person to accept receipt of a tobacco
3 product, alternative nicotine product, or vapor product from an employer when
4 required in the performance of the person's duties.

- 5 (2) All peace officers with general law enforcement authority and employees of the
6 Department of Alcoholic Beverage Control may confiscate the tobacco product,
7 alternative nicotine product, or vapor product of a person under the age of twenty-
8 one (21) who has violated this section. ~~[Notwithstanding any provision of law to the~~
9 ~~contrary, no other penalty shall apply to a person under the age of twenty one (21)~~
10 ~~for a violation of this section.]~~

11 (3) (a) A violation of subsection (1) of this section shall be deemed a status offense
12 if committed by a person under the age of eighteen (18) and shall be under
13 the jurisdiction of the juvenile session of the District Court or the family
14 division of the Circuit Court, as appropriate.

15 (b) A status offender under this section shall be fined:

- 16 1. One hundred dollars (\$100) for a first offense;
17 2. Two hundred fifty dollars (\$250) for a second offense; and
18 3. Five hundred dollars (\$500) for a third offense and any subsequent
19 offense.

20 (c) If the status offender is unable to pay the fine imposed under paragraph (b)
21 of this subsection, he or she may elect to complete:

- 22 1. Twelve (12) hours of community service for a first offense;
23 2. Twenty (20) hours of community service for a second offense; and
24 3. Thirty-seven (37) hours of community service for a third and any
25 subsequent offense;
26 in accordance with an order issued by the court.

27 (4) Except as provided in subsection (3) of this section, any person who violates

1 subsection (1) of this section shall be guilty of:

2 (a) Violation for a first offense; and

3 (b) A class A misdemeanor for each subsequent offense.

4 ➔Section 4. KRS 438.313 is amended to read as follows:

5 (1) ~~A~~~~No~~ wholesaler, retailer, or manufacturer of cigarettes, tobacco products,
6 alternative nicotine products, or vapor products shall not~~may~~ distribute cigarettes,
7 tobacco products, alternative nicotine products, or vapor products, including
8 samples thereof, free of charge or otherwise, to any person under the age of twenty-
9 one (21).

10 (2) Any person who distributes cigarettes, tobacco products, alternative nicotine
11 products, or vapor products, including samples thereof, free of charge or otherwise
12 shall require proof of age from a prospective buyer or recipient if the person has
13 reason to believe that the prospective purchaser or recipient is under the age of
14 twenty-one (21).

15 (3) Any person who violates subsection (1) or (2)~~the provisions~~ of this section shall:

16 (a) Be fined not less than one thousand five hundred dollars (\$1,500)~~one~~
17 ~~thousand dollars (\$1,000)~~ nor more than two thousand dollars (\$2,000)~~two~~
18 ~~thousand five hundred dollars (\$2,500)~~ for a first~~each~~ offense;

19 (b) Be fined not less than two thousand five hundred dollars (\$2,500) nor more
20 than three thousand dollars (\$3,000) for a second or any subsequent
21 offense; and

22 (c) Have any license issued pursuant to Section 1 or 10 of this Act revoked for a
23 third offense.

24 The fine shall be administered by the Department of Alcoholic Beverage Control
25 using a civil enforcement procedure for persons eighteen (18) years of age or older.

26 (4) All peace officers with general law enforcement authority and employees of the
27 Department of Alcoholic Beverage Control may issue a uniform citation, but may

1 not make an arrest, or take a child into custody, for a violation of this section.

2 ➔Section 5. KRS 438.345 is amended to read as follows:

3 (1) As used in this section:

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

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

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

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

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

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

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

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

21 (a) Adequate notice regarding the policy to be provided to students, parents and
22 guardians, school employees, and the general public;

23 (b) A requirement to post signage on or in all property, including any vehicle, that
24 is owned, operated, leased, or contracted for use by a local board of education,
25 clearly stating that use of tobacco products, alternative nicotine products, and
26 vapor products is prohibited at all times and by all persons on or in the
27 property; and

1 (c) A requirement that school employees enforce the policies.

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

6 (b) In the district's code of acceptable behavior and discipline formulated under
7 KRS 158.148(5), each local board of education shall include a policy which,
8 at a minimum, provides that if a student under the age of twenty-one (21)
9 violates subsection (2) of this section, then the district will confiscate the
10 alternative nicotine products, tobacco products, or vapor products and that
11 a second offense shall result in a suspension of that student.

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

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

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

21 (c) Repeal any existing local ordinances, regulations, or policies that provide
22 restrictions on the use of a tobacco product, alternative nicotine product, or
23 vapor product, in addition to those provided for in this section~~[-~~.

24 ~~(6) Each local board of education may choose, up to three (3) years after June 27, 2019,~~
25 ~~to opt out of subsections (2) to (4) of this section].~~

26 ➔Section 6. KRS 438.350 is amended to read as follows:

27 (1) No person under the age of twenty-one (21) shall possess or use tobacco products,

1 alternative nicotine products, or vapor products.

2 (2) Any tobacco product, alternative nicotine product, or vapor product found in the
3 possession of a person under the age of twenty-one (21) and in plain view of the
4 law enforcement officer shall be confiscated by the law enforcement officer making
5 the charge.

6 (3) (a) A violation of subsection (1) of this section shall be deemed a status offense
7 if committed by a person under the age of eighteen (18) and shall be under
8 the jurisdiction of the juvenile session of the District Court or the family
9 division of the Circuit Court, as appropriate.

10 (b) A status offender under this section shall be fined:

11 1. One hundred dollars (\$100) for a first offense;

12 2. Two hundred fifty dollars (\$250) for a second offense; and

13 3. Five hundred dollars (\$500) for a third offense and any subsequent
14 offense.

15 (c) If the status offender is unable to pay the fine, he or she may elect to
16 complete:

17 1. Twelve (12) hours of community services for a first offense;

18 2. Twenty (20) hours of community service for a second offense; and

19 3. Thirty-seven (37) hours of community service for a third and any
20 subsequent offense;

21 in accordance with an order issued by the court.

22 (4) Except as provided in subsection (3) of this section, any person who violates
23 subsection (1) of this section shall be guilty of:

24 (a) A violation for a first offense; and

25 (b) A class A misdemeanor for each subsequent offense.

26 ~~(5)(3)~~ This section shall not apply to persons exempted as provided by KRS 438.311
27 and 438.330.

1 ~~(6)~~~~(4)~~ As used in this section, the terms "alternative nicotine product," "tobacco
2 product," and "vapor product~~[,]~~"~~[-shall]~~ have the same meaning~~[meanings]~~ as in
3 KRS 438.305.

4 ➔Section 7. KRS 600.020 is amended to read as follows:

5 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

6 (1) "Abused or neglected child" means a child whose health or welfare is harmed or
7 threatened with harm when:

8 (a) His or her parent, guardian, person in a position of authority or special trust,
9 as defined in KRS 532.045, or other person exercising custodial control or
10 supervision of the child:

- 11 1. Inflicts or allows to be inflicted upon the child physical or emotional
12 injury as defined in this section by other than accidental means;
- 13 2. Creates or allows to be created a risk of physical or emotional injury as
14 defined in this section to the child by other than accidental means;
- 15 3. Engages in a pattern of conduct that renders the parent incapable of
16 caring for the immediate and ongoing needs of the child, including but
17 not limited to parental incapacity due to a substance use disorder as
18 defined in KRS 222.005;
- 19 4. Continuously or repeatedly fails or refuses to provide essential parental
20 care and protection for the child, considering the age of the child;
- 21 5. Commits or allows to be committed an act of sexual abuse, sexual
22 exploitation, or prostitution upon the child;
- 23 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
24 exploitation, or prostitution will be committed upon the child;
- 25 7. Abandons or exploits the child;
- 26 8. Does not provide the child with adequate care, supervision, food,
27 clothing, shelter, and education or medical care necessary for the child's

- 1 well-being when financially able to do so or offered financial or other
2 means to do so. A parent or other person exercising custodial control or
3 supervision of the child legitimately practicing the person's religious
4 beliefs shall not be considered a negligent parent solely because of
5 failure to provide specified medical treatment for a child for that reason
6 alone. This exception shall not preclude a court from ordering necessary
7 medical services for a child;
- 8 9. Fails to make sufficient progress toward identified goals as set forth in
9 the court-approved case plan to allow for the safe return of the child to
10 the parent that results in the child remaining committed to the cabinet
11 and remaining in foster care for fifteen (15) cumulative months out of
12 forty-eight (48) months; or
- 13 10. Commits or allows female genital mutilation as defined in KRS 508.125
14 to be committed; or
- 15 (b) A person twenty-one (21) years of age or older commits or allows to be
16 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
17 child less than sixteen (16) years of age;
- 18 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
19 675(11);
- 20 (3) "Aggravated circumstances" means the existence of one (1) or more of the
21 following conditions:
- 22 (a) The parent has not attempted or has not had contact with the child for a period
23 of not less than ninety (90) days;
- 24 (b) The parent is incarcerated and will be unavailable to care for the child for a
25 period of at least one (1) year from the date of the child's entry into foster care
26 and there is no appropriate relative placement available during this period of
27 time;

- 1 (c) The parent has sexually abused the child and has refused available treatment;
- 2 (d) The parent has been found by the cabinet to have engaged in abuse of the
- 3 child that required removal from the parent's home two (2) or more times in
- 4 the past two (2) years; or
- 5 (e) The parent has caused the child serious physical injury;
- 6 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
- 7 the reasonable directives of his or her parents, legal guardian, or person exercising
- 8 custodial control or supervision other than a state agency, which behavior results in
- 9 danger to the child or others, and which behavior does not constitute behavior that
- 10 would warrant the filing of a petition under KRS Chapter 645;
- 11 (5) "Beyond the control of school" means any child who has been found by the court to
- 12 have repeatedly violated the lawful regulations for the government of the school as
- 13 provided in KRS 158.150, and as documented in writing by the school as a part of
- 14 the school's petition or as an attachment to the school's petition. The petition or
- 15 attachment shall describe the student's behavior and all intervention strategies
- 16 attempted by the school;
- 17 (6) "Boarding home" means a privately owned and operated home for the boarding and
- 18 lodging of individuals which is approved by the Department of Juvenile Justice or
- 19 the cabinet for the placement of children committed to the department or the
- 20 cabinet;
- 21 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 22 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
- 23 and who have completed a course of education and training in juvenile detention
- 24 developed and approved by, the Department of Juvenile Justice after consultation
- 25 with other appropriate state agencies;
- 26 (9) "Child" means any person who has not reached his or her eighteenth birthday,
- 27 unless otherwise provided;

- 1 (10) "Child-caring facility" means any facility or group home other than a state facility,
2 Department of Juvenile Justice contract facility or group home, or one certified by
3 an appropriate agency as operated primarily for educational or medical purposes,
4 providing residential care on a twenty-four (24) hour basis to children not related by
5 blood, adoption, or marriage to the person maintaining the facility;
- 6 (11) "Child-placing agency" means any agency, other than a state agency, which
7 supervises the placement of children in foster family homes or child-caring
8 facilities or which places children for adoption;
- 9 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
10 designated by the Department of Juvenile Justice or the cabinet for the treatment of
11 mentally ill children. The treatment program of such facilities shall be supervised
12 by a qualified mental health professional;
- 13 (13) "Commitment" means an order of the court which places a child under the custodial
14 control or supervision of the Cabinet for Health and Family Services, Department
15 of Juvenile Justice, or another facility or agency until the child attains the age of
16 eighteen (18) unless otherwise provided by law;
- 17 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
18 operated, or permitted to operate by the Department of Juvenile Justice or the
19 cabinet, which is located within a reasonable proximity of the child's family and
20 home community, which affords the child the opportunity, if a Kentucky resident,
21 to continue family and community contact;
- 22 (15) "Complaint" means a verified statement setting forth allegations in regard to the
23 child which contain sufficient facts for the formulation of a subsequent petition;
- 24 (16) "Court" means the juvenile session of District Court unless a statute specifies the
25 adult session of District Court or the Circuit Court;
- 26 (17) "Court-designated worker" means that organization or individual delegated by the
27 Administrative Office of the Courts for the purposes of placing children in

1 alternative placements prior to arraignment, conducting preliminary investigations,
2 and formulating, entering into, and supervising diversion agreements and
3 performing such other functions as authorized by law or court order;

4 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;

5 (19) "Department" means the Department for Community Based Services;

6 (20) "Dependent child" means any child, other than an abused or neglected child, who is
7 under improper care, custody, control, or guardianship that is not due to an
8 intentional act of the parent, guardian, or person exercising custodial control or
9 supervision of the child;

10 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
11 conduct subject to the jurisdiction of the court who requires a restricted or closely
12 supervised environment for his or her own or the community's protection;

13 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
14 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
15 period of detention prior to adjudication;

16 (23) "Diversion agreement" means a mechanism designed to hold a child accountable
17 for his or her behavior and, if appropriate, securing services to serve the best
18 interest of the child and to provide redress for that behavior without court action
19 and without the creation of a formal court record;

20 (24) "Eligible youth" means a person who:

- 21 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 22 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 23 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
24 order to participate in state or federal educational programs or to establish
25 independent living arrangements;

26 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
27 homelike facility which provides temporary or emergency care of children and

- 1 adequate staff and services consistent with the needs of each child;
- 2 (26) "Emotional injury" means an injury to the mental or psychological capacity or
3 emotional stability of a child as evidenced by a substantial and observable
4 impairment in the child's ability to function within a normal range of performance
5 and behavior with due regard to his or her age, development, culture, and
6 environment as testified to by a qualified mental health professional;
- 7 (27) "Evidence-based practices" means policies, procedures, programs, and practices
8 proven by scientific research to reliably produce reductions in recidivism;
- 9 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
10 to a child, but who has an emotionally significant relationship with the child, or an
11 emotionally significant relationship with a biological parent, siblings, or half-
12 siblings of the child in the case of a child from birth to twelve (12) months of age,
13 prior to placement;
- 14 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 15 (30) "Foster family home" means a private home in which children are placed for foster
16 family care under supervision of the cabinet or a licensed child-placing agency;
- 17 (31) "Graduated sanction" means any of a continuum of accountability measures,
18 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
19 that may include but are not limited to:
- 20 (a) Electronic monitoring;
- 21 (b) Drug and alcohol screening, testing, or monitoring;
- 22 (c) Day or evening reporting centers;
- 23 (d) Reporting requirements;
- 24 (e) Community service; and
- 25 (f) Rehabilitative interventions such as family counseling, substance abuse
26 treatment, restorative justice programs, and behavioral or mental health
27 treatment;

- 1 (32) "Habitual runaway" means any child who has been found by the court to have been
2 absent from his or her place of lawful residence without the permission of his or her
3 custodian for at least three (3) days during a one (1) year period;
- 4 (33) "Habitual truant" means any child who has been found by the court to have been
5 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a
6 one (1) year period;
- 7 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
8 public facility, health care facility, or part thereof, which is approved by the cabinet
9 to treat children;
- 10 (35) "Independent living" means those activities necessary to assist a committed child to
11 establish independent living arrangements;
- 12 (36) "Informal adjustment" means an agreement reached among the parties, with
13 consultation, but not the consent, of the victim of the crime or other persons
14 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
15 after a petition has been filed, which is approved by the court, that the best interest
16 of the child would be served without formal adjudication and disposition;
- 17 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
18 which defines an offense, that the actor's conscious objective is to cause that result
19 or to engage in that conduct;
- 20 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
21 the program developed on the child's behalf is no more harsh, hazardous, or
22 intrusive than necessary; or involves no restrictions on physical movements nor
23 requirements for residential care except as reasonably necessary for the protection
24 of the child from physical injury; or protection of the community, and is conducted
25 at the suitable available facility closest to the child's place of residence to allow for
26 appropriate family engagement;
- 27 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS

- 1 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 2 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
3 serious or critical condition;
- 4 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 5 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and
6 who has not been otherwise charged with a status or public offense;
- 7 (43) "Nonsecure facility" means a facility which provides its residents access to the
8 surrounding community and which does not rely primarily on the use of physically
9 restricting construction and hardware to restrict freedom;
- 10 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
11 child's own home, where a child may be temporarily placed pending further court
12 action. Children before the court in a county that is served by a state operated
13 secure detention facility, who are in the detention custody of the Department of
14 Juvenile Justice, and who are placed in a nonsecure alternative by the Department
15 of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 16 (45) "Out-of-home placement" means a placement other than in the home of a parent,
17 relative, or guardian, in a boarding home, clinical treatment facility, community-
18 based facility, detention facility, emergency shelter, fictive kin home, foster family
19 home, hospital, nonsecure facility, physically secure facility, residential treatment
20 facility, or youth alternative center;
- 21 (46) "Parent" means the biological or adoptive mother or father of a child;
- 22 (47) "Person exercising custodial control or supervision" means a person or agency that
23 has assumed the role and responsibility of a parent or guardian for the child, but that
24 does not necessarily have legal custody of the child;
- 25 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
26 which initiates formal court involvement in the child's case;
- 27 (49) "Physical injury" means substantial physical pain or any impairment of physical

1 condition;

2 (50) "Physically secure facility" means a facility that relies primarily on the use of
3 construction and hardware such as locks, bars, and fences to restrict freedom;

4 (51) "Public offense action" means an action, excluding contempt, brought in the interest
5 of a child who is accused of committing an offense under KRS Chapter 527 or a
6 public offense which, if committed by an adult, would be a crime, whether the same
7 is a felony, misdemeanor, or violation, other than an action alleging that a child
8 sixteen (16) years of age or older has committed a motor vehicle offense;

9 (52) "Qualified mental health professional" means:

10 (a) A physician licensed under the laws of Kentucky to practice medicine or
11 osteopathy, or a medical officer of the government of the United States while
12 engaged in the performance of official duties;

13 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
14 osteopathy, or a medical officer of the government of the United States while
15 engaged in the practice of official duties, and who is certified or eligible to
16 apply for certification by the American Board of Psychiatry and Neurology,
17 Inc.;

18 (c) A psychologist with the health service provider designation, a psychological
19 practitioner, a certified psychologist, or a psychological associate licensed
20 under the provisions of KRS Chapter 319;

21 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
22 an accredited institution and two (2) years of clinical experience with
23 mentally ill persons, or a licensed registered nurse with a bachelor's degree in
24 nursing from an accredited institution who is certified as a psychiatric and
25 mental health nurse by the American Nurses Association and who has three
26 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
27 and who is currently employed by a hospital or forensic psychiatric facility

- 1 licensed by the Commonwealth or a psychiatric unit of a general hospital, a
2 private agency or company engaged in providing mental health services, or a
3 regional comprehensive care center;
- 4 (e) A licensed clinical social worker licensed under the provisions of KRS
5 335.100, or a certified social worker licensed under the provisions of KRS
6 335.080 with three (3) years of inpatient or outpatient clinical experience in
7 psychiatric social work and currently employed by a hospital or forensic
8 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
9 general hospital, a private agency or company engaged in providing mental
10 health services, or a regional comprehensive care center;
- 11 (f) A marriage and family therapist licensed under the provisions of KRS
12 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
13 experience in psychiatric mental health practice and currently employed by a
14 hospital or forensic psychiatric facility licensed by the Commonwealth, a
15 psychiatric unit of a general hospital, a private agency or company engaged in
16 providing mental health services, or a regional comprehensive care center;
- 17 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
18 335.599 with three (3) years of inpatient or outpatient clinical experience in
19 psychiatric mental health practice and currently employed by a hospital or
20 forensic facility licensed by the Commonwealth, a psychiatric unit of a
21 general hospital, a private agency or company engaged in providing mental
22 health services, or a regional comprehensive care center; or
- 23 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
24 (1) of the following requirements:
- 25 1. Provides documentation that he or she has completed a psychiatric
26 residency program for physician assistants;
 - 27 2. Has completed at least one thousand (1,000) hours of clinical experience

1 under a supervising physician, as defined by KRS 311.840, who is a
2 psychiatrist and is certified or eligible for certification by the American
3 Board of Psychiatry and Neurology, Inc.;

4 3. Holds a master's degree from a physician assistant program accredited
5 by the Accreditation Review Commission on Education for the
6 Physician Assistant or its predecessor or successor agencies, is
7 practicing under a supervising physician as defined by KRS 311.840,
8 and:

9 a. Has two (2) years of clinical experience in the assessment,
10 evaluation, and treatment of mental disorders; or

11 b. Has been employed by a hospital or forensic psychiatric facility
12 licensed by the Commonwealth or a psychiatric unit of a general
13 hospital or a private agency or company engaged in the provision
14 of mental health services or a regional community program for
15 mental health and individuals with an intellectual disability for at
16 least two (2) years; or

17 4. Holds a bachelor's degree, possesses a current physician assistant
18 certificate issued by the board prior to July 15, 2002, is practicing under
19 a supervising physician as defined by KRS 311.840, and:

20 a. Has three (3) years of clinical experience in the assessment,
21 evaluation, and treatment of mental disorders; or

22 b. Has been employed by a hospital or forensic psychiatric facility
23 licensed by the Commonwealth or a psychiatric unit of a general
24 hospital or a private agency or company engaged in the provision
25 of mental health services or a regional community program for
26 mental health and individuals with an intellectual disability for at
27 least three (3) years;

- 1 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
2 sec. 675(10);
- 3 (54) "Residential treatment facility" means a facility or group home with more than eight
4 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
5 treatment of children;
- 6 (55) "Retain in custody" means, after a child has been taken into custody, the continued
7 holding of the child by a peace officer for a period of time not to exceed twelve (12)
8 hours when authorized by the court or the court-designated worker for the purpose
9 of making preliminary inquiries;
- 10 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
11 identify specific factors and needs that are related to delinquent and noncriminal
12 misconduct;
- 13 (57) "School personnel" means those certified persons under the supervision of the local
14 public or private education agency;
- 15 (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 16 (59) "Secure juvenile detention facility" means any physically secure facility used for
17 the secure detention of children other than any facility in which adult prisoners are
18 confined;
- 19 (60) "Serious physical injury" means physical injury which creates a substantial risk of
20 death or which causes serious and prolonged disfigurement, prolonged impairment
21 of health, or prolonged loss or impairment of the function of any bodily member or
22 organ;
- 23 (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
24 in which the parent, guardian, person in a position of authority or special trust, as
25 defined in KRS 532.045, or other person having custodial control or supervision of
26 the child or responsibility for his or her welfare, uses or allows, permits, or
27 encourages the use of the child for the purposes of the sexual stimulation of the

1 perpetrator or another person;

2 (62) "Sexual exploitation" includes but is not limited to a situation in which a parent,
3 guardian, person in a position of authority or special trust, as defined in KRS
4 532.045, or other person having custodial control or supervision of a child or
5 responsible for his or her welfare, allows, permits, or encourages the child to
6 engage in an act which constitutes prostitution under Kentucky law; or a parent,
7 guardian, person in a position of authority or special trust, as defined in KRS
8 532.045, or other person having custodial control or supervision of a child or
9 responsible for his or her welfare, allows, permits, or encourages the child to
10 engage in an act of obscene or pornographic photographing, filming, or depicting of
11 a child as provided for under Kentucky law;

12 (63) "Social service worker" means any employee of the cabinet or any private agency
13 designated as such by the secretary of the cabinet or a social worker employed by a
14 county or city who has been approved by the cabinet to provide, under its
15 supervision, services to families and children;

16 (64) "Staff secure facility for residential treatment" means any setting which assures that
17 all entrances and exits are under the exclusive control of the facility staff, and in
18 which a child may reside for the purpose of receiving treatment;

19 (65) (a) "Status offense action" ~~means~~^{is} any action brought in the interest of a child
20 who is accused of committing acts, which if committed by an adult, would not
21 be a crime. Such behavior shall not be considered criminal or delinquent and
22 such children shall be termed status offenders. Status offenses ~~shall~~ include:

- 23 1. Beyond the control of school or beyond the control of parents;
- 24 2. Habitual runaway;
- 25 3. Habitual truant;~~and~~
- 26 4. Alcohol offenses as provided in KRS 244.085; and

27 5. Tobacco, alternative nicotine, or vapor product offenses in violation of

1 *Section 3 or 6 of this Act.*

2 (b) Status offenses shall not include violations of state or local ordinances which
3 may apply to children such as a violation of curfew;

4 (66) "Take into custody" means the procedure by which a peace officer or other
5 authorized person initially assumes custody of a child. A child may be taken into
6 custody for a period of time not to exceed two (2) hours;

7 (67) "Transitional living support" means all benefits to which an eligible youth is
8 entitled upon being granted extended or reinstated commitment to the cabinet by the
9 court;

10 (68) "Transition plan" means a plan that is personalized at the direction of the youth that:

11 (a) Includes specific options on housing, health insurance, education, local
12 opportunities for mentors and continuing support services, and workforce
13 supports and employment services; and

14 (b) Is as detailed as the youth may elect;

15 (69) "Valid court order" means a court order issued by a judge to a child alleged or
16 found to be a status offender:

17 (a) Who was brought before the court and made subject to the order;

18 (b) Whose future conduct was regulated by the order;

19 (c) Who was given written and verbal warning of the consequences of the
20 violation of the order at the time the order was issued and whose attorney or
21 parent or legal guardian was also provided with a written notice of the
22 consequences of violation of the order, which notification is reflected in the
23 record of the court proceedings; and

24 (d) Who received, before the issuance of the order, the full due process rights
25 guaranteed by the Constitution of the United States;

26 (70) "Violation" means any offense, other than a traffic infraction, for which a sentence
27 of a fine only can be imposed;

1 (71) "Youth alternative center" means a nonsecure facility, approved by the Department
2 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and
3 after adjudication, which meets the criteria specified in KRS 15A.320; and

4 (72) "Youthful offender" means any person regardless of age, transferred to Circuit
5 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
6 convicted in Circuit Court.

7 ➔Section 8. KRS 610.010 is amended to read as follows:

8 (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the
9 District Court of each county shall have exclusive jurisdiction in proceedings
10 concerning any child living or found within the county who has not reached his or
11 her eighteenth birthday or of any person who at the time of committing a public
12 offense was under the age of eighteen (18) years, who allegedly has committed a
13 public offense prior to his or her eighteenth birthday, except a motor vehicle offense
14 involving a child sixteen (16) years of age or older. A child sixteen (16) years of
15 age or older taken into custody upon the allegation that the child has committed a
16 motor vehicle offense shall be treated as an adult and shall have the same conditions
17 of release applied to him or her as an adult. A child taken into custody upon the
18 allegation that he or she has committed a motor vehicle offense who is not released
19 under conditions of release applicable to adults shall be held, pending his or her
20 appearance before the District Court, in a facility as defined in KRS 15A.067.
21 Children sixteen (16) years of age or older who are convicted of, or plead guilty to,
22 a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a
23 facility for that period of confinement preceding their eighteenth birthday and an
24 adult detention facility for that period of confinement subsequent to their eighteenth
25 birthday. The term "motor vehicle offense" shall not be deemed to include the
26 offense of stealing or converting a motor vehicle nor operating the same without the
27 owner's consent nor any offense which constitutes a felony;

- 1 (2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the
2 District Court of each county or the family division of the Circuit Court shall have
3 exclusive jurisdiction in proceedings concerning any child living or found within
4 the county who has not reached his or her eighteenth birthday and who allegedly:
- 5 (a) Is beyond the control of the school or beyond the control of parents as defined
6 in KRS 600.020;
- 7 (b) Is an habitual truant from school;
- 8 (c) Is an habitual runaway from his or her parent or other person exercising
9 custodial control or supervision of the child;
- 10 (d) Is dependent, neglected, or abused;
- 11 (e) Has committed an alcohol offense in violation of KRS 244.085;~~[or]~~
- 12 (f) Is mentally ill; or
- 13 (g) Has committed a tobacco, alternative nicotine, or vapor product offense in
14 violation of Section 3 or 6 of this Act.
- 15 (3) Actions brought under subsection (1) of this section shall be considered to be public
16 offense actions.
- 17 (4) Actions brought under subsection (2)(a), (b), (c),~~[and]~~ (e), and (g) of this section
18 shall be considered to be status offense actions.
- 19 (5) Actions brought under subsection (2)(d) of this section shall be considered to be
20 nonoffender actions.
- 21 (6) Actions brought under subsection (2)(f) of this section shall be considered to be
22 mental health actions.
- 23 (7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the
24 custody or guardianship of children upon writs of habeas corpus or to determine the
25 custody or guardianship of children when such custody or guardianship is incidental
26 to the determination of other causes pending in such other courts; nor shall anything
27 in this chapter affect the jurisdiction of Circuit Courts over adoptions and

1 proceedings for termination of parental rights.

2 (8) The court shall have no jurisdiction to make permanent awards of custody of a child
3 except as provided by KRS 620.027.

4 (9) If the court finds an emergency to exist affecting the welfare of a child, or if the
5 child is eligible for the relative or fictive kin caregiver assistance as established in
6 KRS 620.142, it may make temporary orders for the child's custody; however, if the
7 case involves allegations of dependency, neglect, or abuse, no emergency removal
8 or temporary custody orders shall be effective unless the provisions of KRS Chapter
9 620 are followed. Such orders shall be entirely without prejudice to the proceedings
10 for permanent custody of the child and shall remain in effect until modified or set
11 aside by the court. Upon the entry of a temporary or final judgment in the Circuit
12 Court awarding custody of such child, all prior orders of the juvenile session of the
13 District Court in conflict therewith shall be deemed canceled. This section shall not
14 work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

15 (10) The court of each county wherein a public offense, as defined in subsection (1) of
16 this section, is committed by a child who is a resident of another county of this state
17 shall have concurrent jurisdiction over such child with the court of the county
18 wherein the child resides or the court of the county where the child is found.
19 Whichever court first acquires jurisdiction of such child may proceed to final
20 disposition of the case, or in its discretion may make an order transferring the case
21 to the court of the county of the child's residence or the county wherein the offense
22 was committed, as the case may be.

23 (11) Nothing in this chapter shall prevent the court from holding a child in contempt of
24 court to enforce valid court orders previously issued by the court, subject to the
25 requirements contained in KRS 610.265 and 630.080.

26 (12) Except as provided in KRS 635.060(4), 630.120(5), or 635.090, nothing in this
27 chapter shall confer upon the District Court or the family division of the Circuit

1 Court, as appropriate, jurisdiction over the actions of the Department of Juvenile
2 Justice or the cabinet in the placement, care, or treatment of a child committed to
3 the Department of Juvenile Justice or committed to or in the custody of the cabinet;
4 or to require the department or the cabinet to perform, or to refrain from
5 performing, any specific act in the placement, care, or treatment of any child
6 committed to the department or committed to or in the custody of the cabinet.

7 (13) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment,
8 the court shall have the discretion to amend the petition to reflect jurisdiction
9 pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

10 (14) The court shall have continuing jurisdiction over a child pursuant to subsection (1)
11 of this section, to review dispositional orders, and to conduct permanency hearings
12 under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home
13 to his or her parents with all the court imposed conditions terminated, completes a
14 disposition pursuant to KRS 635.060, or reaches the age of eighteen (18) years.

15 ➔Section 9. KRS 630.020 is amended to read as follows:

16 The court shall have exclusive jurisdiction in proceedings concerning any child living, or
17 found within the district, who allegedly:

18 (1) Has been an habitual runaway from his or her parent or person exercising custodial
19 control or supervision of the child;

20 (2) Is beyond the control of the school or beyond the control of parents as defined in
21 KRS 600.020;

22 (3) Has been an habitual truant from school;~~[-or]~~

23 (4) Has committed an alcohol offense under KRS 244.085; or

24 (5) Has committed a tobacco, alternative nicotine, or vapor product offense in
25 violation of Section 3 or 6 of this Act.

26 ➔Section 10. KRS 138.195 is amended to read as follows:

27 (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on

1 which the Kentucky cigarette tax has not been paid, nor act as a resident
2 wholesaler, nonresident wholesaler, vending machine operator, sub-jobber,
3 transporter or unclassified acquirer of such cigarettes without first obtaining a
4 license from the department as set out in this section.

5 (b) No person shall act as a distributor of tobacco products or vapor products
6 without first obtaining a license from the department as set out in this section.

7 (c) For licenses effective for periods beginning on or after July 1, 2015, no
8 individual, entity, or any other group or combination acting as a unit may be
9 eligible to obtain a license under this section if the individual, or any partner,
10 director, principal officer, or manager of the entity or any other group or
11 combination acting as a unit has been convicted of or entered a plea of guilty
12 or nolo contendere to:

13 1. A crime relating to the reporting, distribution, sale, or taxation of
14 cigarettes, tobacco products, or vapor products; or

15 2. A crime involving fraud, falsification of records, improper business
16 transactions or reporting;

17 for ten (10) years from the expiration of probation or final discharge from
18 parole or maximum expiration of sentence.

19 (2) (a) Each resident wholesaler shall secure a separate license for each place of
20 business at which cigarette tax evidence is affixed or at which cigarettes on
21 which the Kentucky cigarette tax has not been paid are received.

22 (b) Each nonresident wholesaler shall secure a separate license for each place of
23 business at which evidence of Kentucky cigarette tax is affixed or from where
24 Kentucky cigarette tax is reported and paid.

25 (c) Each license shall be secured on or before July 1 of each year.

26 (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
27 or portion thereof, for which each license is secured.

- 1 (3) (a) Each sub-jobber shall secure a separate license for each place of business
2 from which cigarettes, upon which the cigarette tax has been paid, are made
3 available to retailers, whether the place of business is located within or
4 without this state.
- 5 (b) Each license shall be secured on or before July 1 of each year.
- 6 (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
7 or portion thereof, for which each license is secured.
- 8 (4) (a) Each vending machine operator shall secure a license for the privilege of
9 dispensing cigarettes, on which the cigarette tax has been paid, by vending
10 machines.
- 11 (b) Each license shall be secured on or before July 1 of each year.
- 12 (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or
13 portion thereof, for which each license is secured.
- 14 (d) No vending machine shall be operated within this Commonwealth without
15 having prominently affixed thereto the name of its operator and the license
16 number assigned to that operator by the department.
- 17 (e) The department shall prescribe by administrative regulation the manner in
18 which the information shall be affixed to the vending machine.
- 19 (5) (a) Each transporter shall secure a license for the privilege of transporting
20 cigarettes within this state.
- 21 (b) Each license shall be secured on or before July 1 of each year.
- 22 (c) Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion
23 thereof, for which each license is secured.
- 24 (d) No transporter shall transport any cigarettes without having in actual
25 possession an invoice or bill of lading therefor, showing:
- 26 1. The name and address of the consignor and consignee;
27 2. The date acquired by the transporter;

- 1 3. The name and address of the transporter;
- 2 4. The quantity of cigarettes being transported; and
- 3 5. The license number assigned to the transporter by the department.

4 (6) Each unclassified acquirer shall secure a license for the privilege of acquiring
5 cigarettes on which the cigarette tax has not been paid. The license shall be secured
6 on or before July 1 of each year. Each licensee shall pay the sum of fifty dollars
7 (\$50) for each year, or portion thereof, for which the license is secured.

8 (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco
9 products or vapor products in this state. Each license shall be secured on
10 or before July 1 of each year, and each licensee shall pay the sum of five
11 hundred dollars (\$500) for each year, or portion thereof, for which the
12 license is secured.

13 2. a. A resident wholesaler, nonresident wholesaler, or subjobber
14 licensed under this section may also obtain and maintain a
15 distributor's license at each place of business at no additional cost
16 each year.

17 b. An unclassified acquirer licensed under this section may also
18 obtain and maintain a distributor's license for the privilege of
19 selling tobacco products or vapor products in this state. The
20 license shall be secured on or before July 1 of each year, and each
21 licensee shall pay the sum of four hundred fifty dollars (\$450) for
22 each year, or portion thereof, for which the license is secured.

23 3. The department may, upon application, grant a distributor's license to a
24 person other than a retailer and who is not otherwise required to hold a
25 distributor's license under this paragraph. If the department grants the
26 license, the licensee shall pay the sum of five hundred dollars (\$500) for
27 each year, or portion thereof, for which the license is secured, and the

1 licensee shall be subject to the excise tax in the same manner and
2 subject to the same requirements as a distributor required to be licensed
3 under this paragraph.

4 (b) The department may, upon application, grant a retail distributor's license to a
5 retailer for the privilege of purchasing tobacco products or vapor products
6 from a distributor not licensed by the department. If the department grants the
7 license, the licensee shall pay the sum of one hundred dollars (\$100) for each
8 year, or portion thereof, for which the license is secured.

9 (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department
10 from requiring a person to purchase more than one (1) license if the nature of that
11 person's business is so diversified as to justify the requirement.

12 (9) (a) The department may by administrative regulation require any person
13 requesting a license or holding a license under this section to supply such
14 information concerning his or her business, sales or any privilege exercised,
15 as is deemed reasonably necessary for the regulation of the licensees, and to
16 protect the revenues of the state.

17 (b) Failure on the part of the applicant or licensee to:

18 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
19 248.754 or Section 4 of this Act, or any administrative regulations
20 promulgated thereunder; or

21 2. Permit an inspection of premises, machines, or vehicles by an authorized
22 agent of the department at any reasonable time;

23 shall be grounds for the denial or revocation of any license issued by the
24 department, after due notice and a hearing by the department.

25 (c) The commissioner may assign a time and place for the hearing and may
26 appoint a conferee who shall conduct a hearing, receive evidence, and hear
27 arguments.

- 1 (d) The conferee shall thereupon file a report with the commissioner together
2 with a recommendation as to the denial or revocation of the license.
- 3 (e) From any denial or revocation made by the commissioner on the report, the
4 licensee may prosecute an appeal to the Board of Tax Appeals pursuant to
5 KRS 49.220.
- 6 (f) Any person whose license has been revoked for the willful violation of any
7 provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
8 248.754 or Section 4 of this Act, or any administrative regulations
9 promulgated thereunder shall not be entitled to any license provided for in this
10 section, or have any interest in any license, either disclosed or undisclosed,
11 either as an individual, partnership, corporation or otherwise, for a period of
12 two (2) years after the revocation.
- 13 (10) No license issued pursuant to this section shall be transferable or negotiable, except
14 that a license may be transferred between an individual and a corporation if that
15 individual is the exclusive owner of that corporation, or between a subsidiary
16 corporation and its parent corporation.
- 17 (11) Every manufacturer located or doing business in this state and the first person to
18 import cigarettes into this state shall keep written records of all shipments of
19 cigarettes to persons within this state, and shall submit to the department monthly
20 reports of such shipments. All books, records, invoices, and documents required by
21 this section shall be preserved in a form prescribed by the department for not less
22 than four (4) years from the making of the records unless the department authorizes,
23 in writing, the destruction of the records.
- 24 (12) No person licensed under this section except nonresident wholesalers shall either
25 sell to or purchase from any other such licensee untax-paid cigarettes.
- 26 (13) (a) Licensed distributors of tobacco products or vapor products shall pay and
27 report the tobacco products tax or vapor products tax on or before the

1 twentieth day of the calendar month following the month in which the
2 possession or title of the tobacco products or vapor products are transferred
3 from the licensed distributor to retailers or consumers in this state, as the case
4 may be.

5 (b) Retailers who have applied for and been granted a retail distributor's license
6 for the privilege of purchasing tobacco products or vapor products from a
7 person who is not a distributor licensed under KRS 138.195(7)(a) shall report
8 and pay the tobacco products tax or vapor products tax on or before the
9 twentieth day of the calendar month following the month in which the
10 products are acquired by the licensed retail distributors.

11 (c) If the distributor or retail distributor timely reports and pays the tax due, the
12 distributor or retail distributor may deduct an amount equal to one percent
13 (1%) of the tax due.

14 (d) The department shall promulgate administrative regulations setting forth the
15 details of the reporting requirements.

16 (14) A tax return shall be filed for each reporting period whether or not tax is due.

17 (15) Any license issued by the department under this section shall not be construed to
18 waive or condone any violation that occurred or may have occurred prior to the
19 issuance of the license and shall not prevent subsequent proceedings against the
20 licensee.

21 (16) (a) The department may deny the issuance of a license under this section if:

- 22 1. The applicant has made any material false statement on the application
23 for the license; or
- 24 2. The applicant has violated any provision of KRS 131.600 to 131.630,
25 138.130 to 138.205, 248.754, or 248.756 or Section 4 of this Act, or any
26 administrative regulations promulgated thereunder.

27 (b) If the department denies the applicant a license under this section, the

1 department shall notify the applicant of the grounds for the denial, and the
2 applicant may request a hearing and appeal the denial as provided in
3 subsection (9) of this section.