

FREQUENTLY ASKED QUESTIONS: Tobacco in Kentucky

***NOTICE:** the following questions do not concern all aspects of Kentucky state and federal tobacco regulations. For legal advice and specific guidance about legal questions related to tobacco sales, consult an attorney.

The following questions refer only to point of sale transactions. All references to “tobacco” include tobacco alternatives such as vaping products.

- 1) Do you need a license to sell tobacco products in Kentucky?
 - a. No. Currently there is no tobacco retail license in Kentucky.
- 2) How can my business sell tobacco products responsibly?
 - a. Know the state and federal tobacco laws and regulations that apply to tobacco retail sales.
 - b. Train employees to understand and comply with the law. Training programs and resources are available, including TRUST and WeCardTraining.
 - c. Never sell to minors under the age of 21. Retail employees must ask for photo identification if they have reason to believe that the buyer or recipient is under 21 years of age. See Kentucky Revised Statute (KRS) 438.310: <http://www.lrc.ky.gov/statutes/statute.aspx?id=19106>
- 3) What resources are available to learn the rules for tobacco sales and employee training?
 - a. WeCard training.
 - b. TRUST training.
 - c. Official FDA Center for Tobacco Products website
<https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Retail/default.htm>:
 - i. Retailer training and enforcement
 - ii. Retailer regulations and guidance documents
 - iii. Summary of rules for the retail sale of tobacco products
 - iv. Summary of the FDA’s August 8, 2016 Deeming Rule, a consumer’s guide
 - d. Kentucky statutes regarding the sale and distribution of tobacco products are found in the Kentucky Revised Statutes Chapter 438:
<http://www.lrc.ky.gov/statutes/chapter.aspx?id=39319>
- 4) Are employees required to be a certain age to sell tobacco products?
 - a. No. There is no minimum age to sell tobacco products. However, all businesses must comply with current child labor and alcoholic beverage control laws.
- 5) If tobacco is sold to a minor, who is cited for the violation?
 - a. The sales clerk who made the sale is cited for the violation. See KRS 438.310:
<http://www.lrc.ky.gov/statutes/statute.aspx?id=19106>
- 6) What is the “tobacco statement?”
 - a. KRS 438.325 requires notice by a retailer stating that an employee is legally responsible for any prohibited sale of a tobacco product to a person under 21 years of age.
<http://www.lrc.ky.gov/statutes/statute.aspx?id=42972>
 - b. All employees must sign a written document acknowledging that their employer provided the notice required by KRS 438.325. The notice must contain the following language:
 - i. “I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products, alternative nicotine products, or vapor products to persons under the age of twenty-one (21) years and that it is illegal for persons under the age of twenty-one (21) years to purchase tobacco products, alternative nicotine products, or vapor products.” See KRS 438.325(3):
<http://www.lrc.ky.gov/statutes/statute.aspx?id=42972>
 - c. A sample of the tobacco statement can be found below.
- 7) What tobacco products are regulated by the Federal Government?

- a. As of August 8, 2016, the U.S. Food & Drug Administration regulates the following tobacco products:
 - i. Cigarettes
 - ii. Smokeless tobacco
 - iii. "Roll your own" cigarette and pipe tobacco
 - iv. Vapor products, including electronic nicotine delivery systems (ENDS), also called "e-cigarettes," e-liquid, and other vapor products. ENDS includes refillable devices and single-use disposable products.
 - v. Cigars, cigarillos, and "little cigars"
 - vi. Hookah tobacco

- 8) Where can the required tobacco signage be obtained?
 - a. The Kentucky Department of Agriculture.
- 9) What is the required language for tobacco signage in Kentucky?
 - a. Kentucky tobacco regulations require retailers to post signage with the following language:
 - i. "WARNING: THE SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO ANY PERSON UNDER AGE TWENTY-ONE IS PROHIBITED BY KENTUCKY LAW. KRS 438.310(1)." See 302 Kentucky Administrative Regulation (KAR) 78:020: <http://www.lrc.ky.gov/kar/302/078/020.htm>
 - ii. The sign must be "no smaller than five and one-half (5 1/2) inches in width by eight and one-half (8 1/2) inches in length." 302 KAR 78:020: <http://www.lrc.ky.gov/kar/302/078/020.htm>
 - iii. The sign must be posted "in a conspicuous place in the establishment," such as next to the cash register. 302 KAR 78:020: <http://www.lrc.ky.gov/kar/302/078/020.htm>
- 10) Are tobacco retailers required to purchase tobacco products from a distributor?
 - a. No.

**KENTUCKY TOBACCO PRODUCTS
SALES COMPLIANCE STATEMENT**

Krs 438.325(3) "I Understand that under the law of Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to person under the age of twenty-one (21) years and that it is illegal for persons under the age of twenty-one (21) years to purchase tobacco products."

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