

1 AN ACT prohibiting tobacco use on school property.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section, "tobacco use" or "use of a tobacco product" means:*

6 *(a) The inhaling, exhaling, burning, or carrying of any lighted or heated cigar,*  
7 *cigarette, hookah, pipe, plant, or any other lighted or heated tobacco*  
8 *product or other material intended for inhalation, in any manner or any*  
9 *form;*

10 *(b) The use of an electronic cigarette or an e-cigarette or a vaping device,*  
11 *which creates a vapor, aerosol, or mist in any manner or in any form,*  
12 *including alternative nicotine products or vapor products as defined in KRS*  
13 *438.305;*

14 *(c) The use of any oral smoking device for the purpose of circumventing the*  
15 *prohibition of tobacco use in this section; or*

16 *(d) The consumption or other use of a tobacco product as defined in KRS*  
17 *438.305(8)(a).*

18 *(2) A person shall not use a tobacco product in or on the campus of an elementary,*  
19 *middle, or high school.*

20 *(3) (a) Students, school personnel, or visitors shall not use a tobacco product on or*  
21 *in property or vehicles that are owned, operated, leased, or contracted for*  
22 *use by a local school board.*

23 *(b) A person affiliated with a school shall not use a tobacco product while*  
24 *attending that school's sponsored trips or activities.*

25 *(4) Tobacco use in violation of subsection (2) or (3) of this section or school policies*  
26 *adopted pursuant to subsection (5) of this section shall be subject to penalties set*  
27 *forth by the local school board.*

1 (5) (a) By the 2019-2020 school year, local school boards shall implement this  
2 section by adopting and enforcing written comprehensive policies that  
3 prohibit tobacco use in school buildings and facilities and on school  
4 campuses.

5 (b) The written policies shall include:

6 1. Adequate notice to students, school personnel, parents, and the public  
7 of the new policies;

8 2. A requirement to post signage, including the universal "No Smoking"  
9 sign, on affected school campuses and school board property that  
10 clearly prohibits at all times the use of a tobacco product by any  
11 person in and on the property; and

12 3. Requirements that school personnel enforce the policies.

13 (6) Nothing in this section shall be interpreted or construed to:

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

17 (b) Prevent a local government from adopting local ordinances or regulations  
18 relating to use of a tobacco product in public places, places of employment,  
19 and nonenclosed areas that are more restrictive than this section; or

20 (c) Repeal any existing local ordinances or regulations that provide restrictions  
21 on use of a tobacco product in addition to those provided in this section.

22 ➔Section 2. The following KRS section is repealed:

23 438.050 Smoking on school premises -- Exception.