



## Kentucky Grade Card

Population Covered: 4,467,673

Tobacco 21 Since: March 26, 2020

TOBACCO  
~~eighteen~~ twenty-one

The Preventing Tobacco Addiction Foundation evaluated all current statewide Tobacco 21 laws for their alignment with best practices that lead to effective prevention of youth initiation of tobacco and nicotine products.

### ENFORCEMENT

GRADE: C

#### Designated Enforcement Agency

**Best Practice:** Health Department or Designated Agency

**Kentucky Enforcement:** Kentucky's Alcohol and Beverage Control and Department of Agriculture are the designated enforcement agencies

#### Age Verification

**Best Practice:** Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify that the purchaser is at least 21 years of age. Each tobacco retailer or tobacco retailer's agent or employee shall examine the purchaser's government-issued photographic identification if the purchaser appears to be under 30 years of age.

**Kentucky Enforcement:** ID check is required for any purchaser that appears to be under 21 years of age

#### Who is the Penalty Placed on?

**Best Practice:** The primary burden for sales to underage purchasers should fall on the retailer who is profiting from the sales of the product and not the purchaser or non-management employee.

**Kentucky Enforcement:** Penalty is placed on the retailer, clerk, or "Person"

#### Number of Compliance Checks

**Best Practice:** Provide authority for the state, county, or municipality to inspect tobacco retailers for compliance with MLSA 21 and a mandated minimum number of annual compliance checks. Model recommends two per year for every tobacco retail establishment.

**Kentucky Enforcement:** Kentucky law does not provide for a minimum number of compliance checks per retailer that must be conducted every year

#### Compliance Checks Done With Underage Decoys Aged 18-20

**Best Practice:** The designated agency shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products.

**Kentucky Enforcement:** Decoy age is not specified

### LICENSING

GRADE: F

#### Statewide Tobacco Retail License

**Best Practice:** A comprehensive tobacco retail license allows states and municipalities to regulate all tobacco retailers, fund enforcement programs, and create a penalty structure that suspends or revokes a license for retailers that continue to violate a MLSA 21 law.

**Kentucky Licensing:** Kentucky does not have a statewide Tobacco Retail License

#### Tobacco Retail License Program Funds Enforcement

**Best Practice:** The fee for a tobacco retail sales license shall be set and used to cover the administrative cost for licensing administration, education and training, retail inspections, and unannounced compliance checks. The tobacco retail sales license fee should not exceed the cost of the regulatory program authorized beyond the statute/ordinance.

**Kentucky Licensing:** Kentucky does not have a statewide Tobacco Retail License; however, a portion of tobacco taxes and fines collected from sales violations contribute to funding enforcement activities

## Tobacco Retail License Fee

**Best Practice:** An effective licensing system requires tobacco retailers to pay an annual license fee and allows it to be periodically adjusted. Fee must be adequate to cover License administration, education/training, and enforcement. An annual fee of lower than \$300 is generally inadequate to fund a licensing program.

**Kentucky Licensing:** Kentucky does not have a statewide Tobacco Retail License

## PENALTIES

GRADE: B

### Penalty Type

**Best Practice:** Establish a civil penalty structure for violations rather than a criminal penalty structure.

**Kentucky Penalties:** Kentucky has a civil penalty structure

### Violation Accrual Period

**Best Practice:** 36 months

**Kentucky Penalties:** Length of violation accrual period not specified

### Monetary Penalty and Suspension Structure

**Best Practice:**

1st violation = \$500

2nd violation = \$750 and (7) day suspension

3rd violation = \$1,000 and (30) day suspension

4th violation = \$1000 and (3) year suspension

**Kentucky Penalties:**

1st Violation = fine of no less than \$100 and no more than \$500

2nd Violation and subsequent offenses = fine of no less than \$500 and no more than \$1,000

Suspension or revocation of license is not specified in the penalty structure

### Does the Law Penalize Youth for Purchase, Use or Possession

**Best Practice:** An evidence-based, best practices tobacco MLSA 21 policy should focus penalties on the tobacco retailer who profits from the illegal sale rather than the youth who is likely addicted to the product. PUP laws may be unlikely to reduce youth smoking significantly.

**Kentucky Penalties:** With the passing of SB 56, Kentucky repealed youth penalties for purchase, use, and possession (PUP) of tobacco products

## PREEMPTION

GRADE: C

### Does Preemption exist, was it added, or expanded

**Best Practice:** Local governments have a critical role in reducing the deadly toll of tobacco by regulating sales and restricting youth access to these products to prevent use and addiction. Tobacco 21 legislation should not introduce new tobacco control preemption, nor expand existing tobacco control preemption, and instead should be used as an opportunity to assert local authority or repeal existing tobacco control preemption.

**Kentucky Preemption:** Preemption existed in Kentucky prior to the passage of their Tobacco 21 law

## DEFINITIONS

GRADE: A

### Definitions

**Best Practice:** A comprehensive definition will cover all current, known tobacco and nicotine products, which include not only cigarettes, cigars, and smokeless tobacco, but also products like pipes, rolling papers, electronic smoking devices, and other related devices. A strong definition will also be broad enough to capture future products.

**Kentucky Definitions:** Kentucky's Tobacco 21 law does not include a single comprehensive definition of tobacco, but does define products separately and regulates all products within their minimum legal sales age