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Emily B Caudill REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 27:180. Vending machines.

5 RELATES TO: KRS 139.010, 139.240, 139.260, 139.470, 139.485, 139.720

6 STATUTORY AUTHORITY: KRS 131.130[(-)]

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the  
8 Department of Revenue to promulgate administrative regulations to administer and enforce  
9 Kentucky's tax laws. This administrative regulation establishes the requirements when interpreting  
10 the sales and use tax law as it applies to sales of tangible personal property through vending  
11 machines.

12 Section 1. Definitions. "Bulk vending machine" is defined in KRS 139.470(5).

13 Section 2. Persons who own vending machines which dispense tangible personal property, or  
14 operators of the machines under lease or rental agreements, shall complete a "Kentucky Tax  
15 Registration Application", Revenue form 10A100, to obtain a Kentucky Retail Sales and Use Tax  
16 permit to engage in the business of selling tangible personal property and shall report and pay to  
17 the department the tax upon the gross receipts from sales made through the machines by utilizing  
18 Revenue Form 51A102, "Sales and Use Tax Return". One (1) permit shall be sufficient for all  
19 machines of one (1) owner or operator.

20 Section 3. ~~[2.]~~ The owners or operators of vending machines shall be responsible for reporting  
21 and paying the tax on the total gross receipts even though the owner or operator of the place in

1 which the machines are located receives a share of the gross receipts under a commission or  
2 concession contract. In reporting and paying the tax, the owner or operator shall be deemed the  
3 agent of the operator or owner of the place of business in which the machine is located to the extent  
4 of commissions due the latter. Gross receipts from bulk vending machine sales of tangible personal  
5 property made in portions of fifty (50) cents or less [~~through coin-operated bulk vending machines~~  
6 ~~where unsorted merchandise is dispensed in approximately equal portions~~] are exempt from the  
7 sales and use tax pursuant to KRS 139.470(5).~~[(KRS 139.470(6));]~~

8 Section 4.~~[3-]~~ A statement in the following form must be affixed upon each vending machine  
9 in a conspicuous place: "This vending machine is owned (operated) by \_\_\_\_\_ Owner (Operator),  
10 \_\_\_\_\_ Place of Business of Owner (Operator), who holds Permit No. \_\_\_\_\_, issued pursuant  
11 to the Sales and Use Tax Law."

12 Section 5.~~[4-]~~ If the owner or operator of vending machines also places upon each machine a  
13 statement that the sales tax is included in the price of the property dispensed, they~~[he]~~ may compute  
14 the~~[his]~~ liability for the tax in the same manner as all other retailers who separately state the tax.

15 Section 6.~~[5-]~~ Adequate and complete records must be kept by the owner or operator showing  
16 the location of each vending machine owned or operated, ~~[by him,]~~ the serial number thereof,  
17 purchases and inventories of merchandise bought for sale through such machine, and the gross  
18 receipts derived from each location during each tax period.

19 Section 7.~~[6-]~~ Forms. The forms listed within this administrative regulation may be inspected,  
20 copied, or obtained:

- 21 (1) At the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;
- 22 (2) At a Kentucky Taxpayer Service Center; or
- 23 (3) On the department Web site at <http://revenue.ky.gov>.

103 KAR 27:180

APPROVED BY AGENCY:

*Daniel Bork*  
DANIEL P. BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

JULY 12, 2019  
Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on August 22, 2019 at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), [Lisa.Swiger@ky.gov](mailto:Lisa.Swiger@ky.gov)(email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 27:180

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 27:180 to move a definition for “bulk vending machine” from Section 3 to Section 1 to adhere to KRS 13A drafting requirements, and update statutory citations.

(b) The necessity of this administrative regulation: The amendment is necessary to comply with KRS 13A guidelines, or run the risk of this administrative regulation being ruled deficient.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform to the formatting and drafting rules of KRS 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment doesn’t impact the administration of the provisions of this administrative regulation. It only moves current language from one section to another to comply with KRS 13A and correct a statutory citation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, or organizations that are impacted by 103 KAR 27:180 for the purposes of sales in vending machines.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment. This amendment is only a formatting correction.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None. The information provided is the same, only the section where it was located in this administrative regulation has changed.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as this administrative regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 27:180

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A, 131.130, and 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenues are expected to be generated by updating this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect. Any costs will be incurred as normal operating expenditures of the Department of Revenue.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: