

SENATE BILL No. 318

By Committee on Federal and State Affairs

2-13

AN ACT increasing the rate of taxation imposed upon cigarettes and tobacco products and providing for the disposition of revenue received therefrom; amending K.S.A. 79-3310, 79-3311, 79-3312, 79-3371 and 79-3378 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. On and after June 1, 2001, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$.34 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$.425 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

New Sec. 2. On or before June 30, 2001, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on June 1, 2001. A tax of \$.10 on each 20 cigarettes or fractional part thereof or \$.125 on each 25 cigarettes, as the case requires and \$.10 or \$.125, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to June 1, 2001, is hereby imposed and shall be due and payable on or before June 30, 2001. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2001, K.S.A. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed

1 wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps
2 applied by the heat process shall be sold only in amounts of 30,000 or
3 multiples thereof, except that such stamps which are suitable for packages
4 containing 25 cigarettes each shall be sold in amounts prescribed by the
5 director. Meter imprints shall be sold only in amounts of 10,000 or mul-
6 tiples thereof. Water applied stamps in amounts of 10,000 or multiples
7 thereof and stamps applied by the heat process and meter imprints shall
8 be supplied to wholesale dealers at a discount of ~~2.65%~~ 1.87% from the
9 face value thereof, and shall be deducted at the time of purchase or from
10 the remittance therefor as hereinafter provided. Any wholesale cigarette
11 dealer who shall file with the director a bond, of acceptable form, payable
12 to the state of Kansas with a corporate surety authorized to do business
13 in Kansas, shall be permitted to purchase stamps, and remit therefor to
14 the director within 30 days after each such purchase, up to a maximum
15 outstanding at any one time of 85% of the amount of the bond. Failure
16 on the part of any wholesale dealer to remit as herein specified shall be
17 cause for forfeiture of such dealer's bond. All revenue received from the
18 sale of such stamps or meter imprints shall be remitted to the state trea-
19 surer daily. Upon receipt thereof, the state treasurer shall deposit the
20 entire amount thereof in the state treasury. The state treasurer shall first
21 credit such amount thereof as the director shall order to the cigarette tax
22 refund fund and shall credit the remaining balance to the state general
23 fund. A refund fund designated the cigarette tax refund fund not to ex-
24 ceed \$10,000 at any time shall be set apart and maintained by the director
25 from taxes collected under this act and held by the state treasurer for
26 prompt payment of all refunds authorized by this act. Such cigarette tax
27 refund fund shall be in such amount as the director shall determine is
28 necessary to meet current refunding requirements under this act.

29 The wholesale cigarette dealer shall affix to each package of cigarettes
30 stamps or tax meter imprints required by this act prior to the sale of
31 cigarettes to any person, by such dealer or such dealer's agent or agents,
32 within the state of Kansas. The director is empowered to authorize whole-
33 sale dealers to affix revenue tax meter imprints upon original packages of
34 cigarettes and is charged with the duty of regulating the use of tax meters
35 to secure payment of the proper taxes. No wholesale dealer shall affix
36 revenue tax meter imprints to original packages of cigarettes without first
37 having obtained permission from the director to employ this method of
38 affixation. If the director approves the wholesale dealer's application for
39 permission to affix revenue tax meter imprints to original packages of
40 cigarettes, the director shall require such dealer to file a suitable bond
41 payable to the state of Kansas executed by a corporate surety authorized
42 to do business in Kansas. The director may, to assure the proper collection
43 of taxes imposed by the act, revoke or suspend the privilege of imprinting

1 tax meter imprints upon original packages of cigarettes. All meters shall
2 be under the direct control of the director, and all transfer assignments
3 or anything pertaining thereto must first be authorized by the director.
4 All inks used in the stamping of cigarettes must be of a special type
5 devised for use in connection with the machine employed and approved
6 by the director. All repairs to the meter are strictly prohibited except by
7 a duly authorized representative of the director. Requests for service shall
8 be directed to the director. Meter machine ink imprints on all packages
9 shall be clear and legible. If a wholesale dealer continuously issues illeg-
10 ible cigarette tax meter imprints, it shall be considered sufficient cause
11 for revocation of such dealer's permit to use a cigarette tax meter.

12 A licensed wholesale dealer may, for the purpose of sale in another
13 state, transport cigarettes not bearing Kansas indicia of tax payment
14 through the state of Kansas provided such cigarettes are contained in
15 sealed and original cartons.

16 Sec. 4. On and after June 1, 2001, K.S.A. 79-3312 is hereby amended
17 to read as follows: 79-3312. The director shall redeem any unused stamps
18 or meter imprints that any wholesale dealer presents for redemption
19 within six months after the purchase thereof, at the face value less ~~2.65%~~
20 *1.87%* thereof if such stamps or meter imprints have been purchased
21 from the director. The director shall prepare a voucher showing the net
22 amount of such refund due, and the director of accounts and reports shall
23 draw a warrant on the state treasurer for the same. Wholesale dealers
24 shall be entitled to a refund of the tax paid on cigarettes which have
25 become unfit for sale upon proof thereof less ~~2.65%~~ *1.87%* of such tax.

26 Sec. 5. On and after June 1, 2001, K.S.A. 79-3371 is hereby amended
27 to read as follows: 79-3371. A tax is hereby imposed upon the privilege
28 of selling or dealing in tobacco products in this state by any person en-
29 gaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~
30 *14%* of the wholesale sales price of such tobacco products. Such tax shall
31 be imposed at the time the distributor (a) brings or causes to be brought
32 into this state from without the state tobacco products for sale; (b) makes,
33 manufactures, or fabricates tobacco products in this state for sale in this
34 state; or (c) ships or transports tobacco products to retailers in this state
35 to be sold by those retailers.

36 New Sec. 6. On or before June 30, 2001, each distributor having a
37 place of business in this state shall file a report with the director in such
38 form as the director may prescribe, showing the tobacco products on hand
39 at 12:01 a.m. on June 1, 2001. A tax at a rate equal to 4% of the wholesale
40 sales price of such tobacco products is hereby imposed upon such tobacco
41 products and shall be due and payable on or before June 30, 2001. The
42 tax upon such tobacco products shall be imposed only once under this
43 act. The director shall remit all moneys collected pursuant to this section

1 to the state treasurer who shall credit the entire amount thereof to the
2 state general fund.

3 Sec. 7. On and after June 1, 2001, K.S.A. 79-3378 is hereby amended
4 to read as follows: 79-3378. On or before the ~~twentieth~~ *20th* day of each
5 calendar month every distributor with a place of business in this state
6 shall file a return with the director showing the quantity and wholesale
7 sales price of each tobacco product (~~1~~) brought, or caused to be brought,
8 into this state for sale; and (~~2~~) made, manufactured, or fabricated in this
9 state for sale in this state during the preceding calendar month. Every
10 licensed distributor outside this state shall in like manner file a return
11 showing the quantity and wholesale sales price of each tobacco product
12 shipped or transported to retailers in this state to be sold by those retail-
13 ers, during the preceding calendar month. Returns shall be made upon
14 forms furnished and prescribed by the director. Each return shall be
15 accompanied by a remittance for the full tax liability shown therein, less
16 ~~four percent (4%)~~ 2.85% of such liability as compensation to reimburse
17 the distributor for ~~his or her~~ expenses incurred in the administration of
18 this act. As soon as practicable after any return is filed, the director shall
19 examine the return. If the director finds that, ~~in his or her judgment~~, the
20 return is incorrect and any amount of tax is due from the distributor and
21 unpaid, ~~he or she~~ *the director* shall notify the distributor of the deficiency.
22 If a deficiency disclosed by the director's examination cannot be allocated
23 by him to a particular month or months, ~~he or she~~ *the director* may
24 ~~nevertheless~~ notify the distributor that a deficiency exists and state the
25 amount of tax due. Such notice shall be given to the distributor by reg-
26 istered or certified mail.

27 New Sec. 8. (a) There is hereby created in the state treasury the state
28 board of regents supplemental revenue fund, the state board of regents
29 student tuition stabilization fund, the highway patrol salary enhancement
30 fund, the department of corrections salary enhancement fund, the home
31 and community-based services developmental disabilities waiver fund and
32 the state employees salary enhancement fund. All moneys credited to all
33 such funds shall be expended or transferred in accordance with appro-
34 priation acts.

35 (b) On January 1, 2002, the director of accounts and reports shall
36 transfer from the state general fund the following amounts: \$9 million to
37 the state board of regents supplemental revenue fund; \$5 million to the
38 state board of regents student tuition stabilization fund; \$5 million to the
39 department of corrections salary enhancement fund; \$2 million to the
40 highway patrol salary enhancement fund and \$2 million to the home and
41 community-based services developmental disabilities waiver fund. All
42 such transfers are subject to reduction under K.S.A. 75-6704, and amend-
43 ments thereto.

1 (c) On January 1, 2003, and each year thereafter, the director of ac-
2 counts and reports shall transfer from the state general fund \$11.5 million
3 to the state board of regents supplemental revenue fund and \$11.5 million
4 to the state employees salary enhancement fund. All such transfers are
5 subject to reduction under K.S.A. 75-6704, and amendments thereto.

6 Sec. 9. On and after June 1, 2001, K.S.A. 79-3310, 79-3311, 79-3312,
7 79-3371 and 79-3378 are hereby repealed.

8 Sec. 10. This act shall take effect and be in force from and after its
9 publication in the Kansas register.

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