

SENATE BILL No. 345

By Committee on Ways and Means

3-6

AN ACT relating to the taxation of cigarettes; increasing the rate thereof; providing for disposition of revenues; establishing the community health programs grant fund; amending K.S.A. 79-3310, 79-3311 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~~ \$.25 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$.31 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.

Sec. 2. 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 wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 2.54% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to

1 the director within 30 days after each such purchase, up to a maximum
2 outstanding at any one time of 85% of the amount of the bond. Failure
3 on the part of any wholesale dealer to remit as herein specified shall be
4 cause for forfeiture of such dealer's bond. All revenue received from the
5 sale of such stamps or meter imprints shall be remitted to the state trea-
6 surer daily. Upon receipt thereof, the state treasurer shall deposit the
7 entire amount thereof in the state treasury. The state treasurer shall first
8 credit such amount thereof as the director shall order to the cigarette tax
9 refund fund and shall credit the remaining balance to the state general
10 fund. A refund fund designated the cigarette tax refund fund not to ex-
11 ceed \$10,000 at any time shall be set apart and maintained by the director
12 from taxes collected under this act and held by the state treasurer for
13 prompt payment of all refunds authorized by this act. Such cigarette tax
14 refund fund shall be in such amount as the director shall determine is
15 necessary to meet current refunding requirements under this act.

16 The wholesale cigarette dealer shall affix to each package of cigarettes
17 stamps or tax meter imprints required by this act prior to the sale of
18 cigarettes to any person, by such dealer or such dealer's agent or agents,
19 within the state of Kansas. The director is empowered to authorize whole-
20 sale dealers to affix revenue tax meter imprints upon original packages of
21 cigarettes and is charged with the duty of regulating the use of tax meters
22 to secure payment of the proper taxes. No wholesale dealer shall affix
23 revenue tax meter imprints to original packages of cigarettes without first
24 having obtained permission from the director to employ this method of
25 affixation. If the director approves the wholesale dealer's application for
26 permission to affix revenue tax meter imprints to original packages of
27 cigarettes, the director shall require such dealer to file a suitable bond
28 payable to the state of Kansas executed by a corporate surety authorized
29 to do business in Kansas. The director may, to assure the proper collection
30 of taxes imposed by the act, revoke or suspend the privilege of imprinting
31 tax meter imprints upon original packages of cigarettes. All meters shall
32 be under the direct control of the director, and all transfer assignments
33 or anything pertaining thereto must first be authorized by the director.
34 All inks used in the stamping of cigarettes must be of a special type
35 devised for use in connection with the machine employed and approved
36 by the director. All repairs to the meter are strictly prohibited except by
37 a duly authorized representative of the director. Requests for service shall
38 be directed to the director. Meter machine ink imprints on all packages
39 shall be clear and legible. If a wholesale dealer continuously issues illeg-
40 ible cigarette tax meter imprints, it shall be considered sufficient cause
41 for revocation of such dealer's permit to use a cigarette tax meter.

42 A licensed wholesale dealer may, for the purpose of sale in another
43 state, transport cigarettes not bearing Kansas indicia of tax payment

1 through the state of Kansas provided such cigarettes are contained in
2 sealed and original cartons.

3 Sec. 3. 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 (~~+~~) 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%)~~ 2.54% 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,~~
20 the 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. 4. On or before June 30, 2001, each wholesale dealer, retail
28 dealer and vending machine operator shall file a report with the director
29 in such form as the director may prescribe showing cigarettes, cigarette
30 stamps and meter imprints on hand at 12:01 a.m. on June 1, 2001. A tax
31 of \$.01 on each 20 cigarettes or fractional part thereof or \$.0125 on each
32 25 cigarettes, as the case requires and \$.01 or \$.0125, as the case requires
33 upon all tax stamps and all meter imprints purchased from the director
34 and not affixed to cigarettes prior to June 1, 2001, is hereby imposed and
35 shall be due and payable on or before June 30, 2001. The tax imposed
36 upon such cigarettes, tax stamps and meter imprints shall be imposed
37 only once under this act. The director shall remit all moneys collected
38 pursuant to this section to the state treasurer who shall credit the entire
39 amount thereof to the state general fund.

40 New Sec. 5. (a) On each October 1, January 1, April 1 and July 1,
41 the secretary of revenue shall certify to the director of accounts and re-
42 ports the amounts equal to the total revenues received by the secretary
43 and attributable to the increase in taxes imposed under section 1, and

1 amendments thereto, under this act and deposited in the state treasury
2 and credited to the state general fund during the preceding three calendar
3 months.

4 (b) Upon receipt of each certification under subsection (a), the di-
5 rector of accounts and reports shall transfer from the state general fund
6 to the community health programs grant fund the amount equal to the
7 amount certified.

8 (c) All transfers made in accordance with the provisions of this section
9 shall be considered to be demand transfers from the state general fund.

10 New Sec. 6. (a) There is hereby established in the state treasury the
11 community health programs grant fund which shall be administered by
12 the secretary of health and environment. The secretary of health and
13 environment may accept or receive moneys for any source, governmental
14 or private, for the purposes for which expenditures may be made from
15 the community health programs grant fund and may expend such moneys
16 for the purpose for which received.

17 (b) All moneys credited to the community health programs grant fund
18 shall be used by the secretary of health and environment to distribute
19 state financial assistance as defined in subsection (d) of K.S.A. 65-241,
20 and amendments thereto, to local health departments pursuant to the
21 formula and procedures prescribed by K.S.A. 65-241 *et seq.*, and amend-
22 ments thereto.

23 (c) Expenditures from the community health programs grant fund
24 shall be made in accordance with appropriation acts upon warrants of the
25 director of accounts and reports issued pursuant to vouchers approved
26 by the secretary of health and environment.

27 (d) On or before the 10th of each month, the director of accounts
28 and reports shall transfer from the state general fund to the community
29 health programs grant fund interest earnings based on:

30 (1) The average daily balance of moneys in the community health
31 programs grant fund for the preceding month; and

32 (2) the net earnings rate of the pooled money investment portfolio
33 for the preceding month.

34 Sec. 7. On and after June 1, 2001, K.S.A. 79-3310, 79-3311 and 79-
35 3378 are hereby repealed.

36 Sec. 8. This act shall take effect and be in force from and after its
37 publication in the statute book.

38
39
40
41
42
43