

SENATE BILL No. 503

By Committee on Ways and Means

2-11

9 AN ACT concerning taxation on cigarettes and tobacco products; relating
10 to rates and disposition of revenue; amending K.S.A. 79-3371 and 79-
11 3378 and K.S.A. 2003 Supp. 79-3310, 79-3311, 79-3312 and 79-3387
12 and repealing the existing sections.
13

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

15 Section 1. On and after June 1, 2004, K.S.A. 2003 Supp. 79-3310 is
16 hereby amended to read as follows: 79-3310. There is imposed a tax upon
17 all cigarettes sold, distributed or given away within the state of Kansas.
18 On and after July 1, 2002, and before January 1, 2003, the rate of such
19 tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875
20 on each 25 cigarettes, as the case requires. On and after January 1, 2003,
21 *and before June 1, 2004*, the rate of such tax shall be \$.79 on each 20
22 cigarettes or fractional part thereof or \$.99 on each 25 cigarettes, as the
23 case requires. *On or after June 1, 2004, and before June 1, 2005, the rate*
24 *of such tax shall be \$.87 on each 20 cigarettes or fractional part thereof*
25 *or \$1.09 on each 25 cigarettes, as the case requires. On or after June 1,*
26 *2005, the rate of such tax shall be \$.93 on each 20 cigarettes or fractional*
27 *part thereof or \$1.16 on each 25 cigarettes or fractional part thereof.* Such
28 tax shall be collected and paid to the director as provided in this act. Such
29 tax shall be paid only once and shall be paid by the wholesale dealer first
30 receiving the cigarettes as herein provided.

31 The taxes imposed by this act are hereby levied upon all sales of ciga-
32 rettes made to any department, institution or agency of the state of Kan-
33 sas, and to the political subdivisions thereof and their departments, insti-
34 tutions and agencies.

35 New Sec. 2. On or before June 30, 2004, each wholesale dealer, retail
36 dealer and vending machine operator shall file a report with the director
37 in such form as the director may prescribe showing cigarettes, cigarette
38 stamps and meter imprints on hand at 12:01 a.m. on June 1, 2004. A tax
39 of \$.08 on each 20 cigarettes or fractional part thereof or \$.10 on each
40 25 cigarettes, as the case requires and \$.08 or \$.10 as the case requires
41 upon all tax stamps and all meter imprints purchased from the director
42 and not affixed to cigarettes prior to June 1, 2004, is hereby imposed and
43 shall be due and payable on or before June 30, 2004. The tax imposed

1 upon such cigarettes, tax stamps and meter imprints shall be imposed
2 only once under this act. The director shall remit all moneys collected
3 pursuant to this section to the state treasurer who shall credit the entire
4 amount thereof to the tobacco use prevention and control program fund.
5 Sec. 3. On and after June 1, 2004, K.S.A. 2003 Supp. 79-3311 is
6 hereby amended to read as follows: 79-3311. The director shall design
7 and designate indicia of tax payment to be affixed to each package of
8 cigarettes as provided by this act. The director shall sell water applied
9 stamps only to licensed wholesale dealers in the amounts of 1,000 or
10 multiples thereof. Stamps applied by the heat process shall be sold only
11 in amounts of 30,000 or multiples thereof, except that such stamps which
12 are suitable for packages containing 25 cigarettes each shall be sold in
13 amounts prescribed by the director. Meter imprints shall be sold only in
14 amounts of 10,000 or multiples thereof. Water applied stamps in amounts
15 of 10,000 or multiples thereof and stamps applied by the heat process
16 and meter imprints shall be supplied to wholesale dealers at a discount
17 of .90% on and after July 1, 2002, and before January 1, 2003, ~~and~~ .80%
18 *on and after January 1, 2003, and before June 1, 2004; .72% on and after*
19 *June 1, 2004, and before June 1, 2005; and .67% on and after June 1,*
20 *2005, and thereafter from the face value thereof, and shall be deducted*
21 *at the time of purchase or from the remittance therefor as hereinafter*
22 *provided. Any wholesale cigarette dealer who shall file with the director*
23 *a bond, of acceptable form, payable to the state of Kansas with a corporate*
24 *surety authorized to do business in Kansas, shall be permitted to purchase*
25 *stamps, and remit therefor to the director within 30 days after each such*
26 *purchase, up to a maximum outstanding at any one time of 85% of the*
27 *amount of the bond. Failure on the part of any wholesale dealer to remit*
28 *as herein specified shall be cause for forfeiture of such dealer's bond. All*
29 *revenue received from the sale of such stamps or meter imprints shall be*
30 *remitted to the state treasurer in accordance with the provisions of K.S.A.*
31 *75-4215, and amendments thereto. Upon receipt of each such remittance,*
32 *the state treasurer shall deposit the entire amount in the state treasury.*
33 *The state treasurer shall first credit such amount as the director shall*
34 *order to the cigarette tax refund fund, and on and after July 1, 2004, and*
35 *before July 1, 2005, shall credit 9.19% to the tobacco use prevention and*
36 *control program fund, and on and after July 1, 2005, shall credit 15.04%*
37 *to the tobacco use prevention and control program fund, and shall credit*
38 *the remaining balance to the state general fund. A refund fund designated*
39 *the cigarette tax refund fund not to exceed \$10,000 at any time shall be*
40 *set apart and maintained by the director from taxes collected under this*
41 *act and held by the state treasurer for prompt payment of all refunds*
42 *authorized by this act. Such cigarette tax refund fund shall be in such*
43 *amount as the director shall determine is necessary to meet current re-*

1 funding requirements under this act.

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

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

32 Sec. 4. On and after June 1, 2004, K.S.A. 2003 Supp. 79-3312 is
33 hereby amended to read as follows: 79-3312. The director shall redeem
34 any unused stamps or meter imprints that any wholesale dealer presents
35 for redemption within six months after the purchase thereof, at the face
36 value less .90% on and after July 1, 2002, and before January 1, 2003;
37 ~~and~~ .80% on and after January 1, 2003, and before June 1, 2004; .72%
38 on and after June 1, 2004, and before June 1, 2005; and .67% on and after
39 June 1, 2005, and thereafter thereof if such stamps or meter imprints
40 have been purchased from the director. The director shall prepare a
41 voucher showing the net amount of such refund due, and the director of
42 accounts and reports shall draw a warrant on the state treasurer for the
43 same. Wholesale dealers shall be entitled to a refund of the tax paid on

1 cigarettes which have become unfit for sale upon proof thereof less .90%
2 on and after July 1, 2002, and before January 1, 2003, ~~and~~; .80% on and
3 after January 1, 2003, and before June 1, 2004; .72% on and after June
4 1, 2004, and before June 1, 2005; and .67% on and after June 1, 2005,
5 and thereafter of such tax.

6 Sec. 5. On and after June 1, 2004, K.S.A. 79-3371 is hereby amended
7 to read as follows: 79-3371. A tax is hereby imposed upon the privilege
8 of selling or dealing in tobacco products in this state by any person en-
9 gaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~
10 13% of the wholesale sales price of such tobacco products. Such tax shall
11 be imposed at the time the distributor (a) brings or causes to be brought
12 into this state from without the state tobacco products for sale; (b) makes,
13 manufactures, or fabricates tobacco products in this state for sale in this
14 state; or (c) ships or transports tobacco products to retailers in this state
15 to be sold by those retailers.

16 New Sec. 6. On or before June 30, 2004, each distributor having a
17 place of business in this state shall file a report with the director in such
18 form as the director may prescribe, showing the tobacco products on hand
19 at 12:01 a.m. on June 1, 2004. A tax at a rate equal to 3% of the wholesale
20 sales price of such tobacco products is hereby imposed upon such tobacco
21 products and shall be due and payable on or before June 30, 2004. The
22 tax upon such tobacco products shall be imposed only once under this
23 act. The director shall remit all moneys collected pursuant to this section
24 to the state treasurer who shall credit the entire amount thereof to the
25 tobacco use prevention and control program fund.

26 Sec. 7. On and after June 1, 2004, K.S.A. 79-3378 is hereby amended
27 to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each
28 calendar month every distributor with a place of business in this state
29 shall file a return with the director showing the quantity and wholesale
30 sales price of each tobacco product ~~(1)~~ brought, or caused to be brought,
31 into this state for sale; and ~~(2)~~ made, manufactured, or fabricated in this
32 state for sale in this state during the preceding calendar month. Every
33 licensed distributor outside this state shall in like manner file a return
34 showing the quantity and wholesale sales price of each tobacco product
35 shipped or transported to retailers in this state to be sold by those retail-
36 ers, during the preceding calendar month. Returns shall be made upon
37 forms furnished and prescribed by the director. Each return shall be
38 accompanied by a remittance for the full tax liability shown therein, less
39 ~~four percent (4%)~~ 3% of such liability as compensation to reimburse the
40 distributor for ~~his or her~~ expenses incurred in the administration of this
41 act. As soon as practicable after any return is filed, the director shall
42 examine the return. If the director finds that, ~~in his or her judgment,~~ the
43 return is incorrect and any amount of tax is due from the distributor and

1 unpaid, ~~he or she~~ *the director* shall notify the distributor of the deficiency.
2 If a deficiency disclosed by the director's examination cannot be allocated
3 by ~~him~~ *the director* to a particular month or months, ~~he or she~~ *the director*
4 may ~~nevertheless~~ notify the distributor that a deficiency exists and state
5 the amount of tax due. Such notice shall be given to the distributor by
6 registered or certified mail.

7 Sec. 8. On and after June 1, 2004, K.S.A. 2003 Supp. 79-3387 is
8 hereby amended to read as follows: 79-3387. (a) All revenue collected or
9 received by the director from taxes imposed by this act shall be remitted
10 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
11 and amendments thereto. Upon receipt of each such remittance, the state
12 treasurer shall deposit the entire amount in the state treasury to the credit
13 of the state general fund, *except that on and after July 1, 2004, shall credit*
14 *23% to the tobacco use prevention and control program fund and the*
15 *remainder to the state general fund.*

16 (b) All moneys received from license fees imposed by this act shall
17 be collected by the director and shall be remitted to the state treasurer
18 in accordance with the provisions of K.S.A. 75-4215, and amendments
19 thereto. Upon receipt of each such remittance, the state treasurer shall
20 deposit the entire amount in the state treasury to the credit of the ciga-
21 rette and tobacco products regulation fund created by K.S.A. 79-3391,
22 and amendments thereto.

23 Sec. 9. On and after June 1, 2004, K.S.A. 79-3371 and 79-3378 and
24 K.S.A. 2003 Supp. 79-3310, 79-3311, 79-3312 and 79-3387 are hereby
25 repealed.

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