

HOUSE BILL No. 2512

By Committee on Taxation

2-13

9 AN ACT concerning taxation; relating to certain tobacco products; com-
10 putation of tax; amending K.S.A. 79-3371 and K.S.A. 2006 Supp. 79-
11 3301 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2006 Supp. 79-3301 is hereby amended to read as
15 follows: 79-3301. As used in this act:

16 (a) "Carrier" means one who transports cigarettes from a manufac-
17 turer to a wholesale dealer or from one wholesale dealer to another.

18 (b) "Carton" means the container used by the manufacturer of cig-
19 arettes in which no more than 10 packages of cigarettes are placed prior
20 to shipment from such manufacturer.

21 (c) "Cigarette" means any roll for smoking, made wholly or in part
22 of tobacco, irrespective of size or shape, and irrespective of tobacco being
23 flavored, adulterated or mixed with any other ingredient if the wrapper
24 is in greater part made of any material except tobacco.

25 (d) "Consumer" means the person purchasing or receiving cigarettes
26 or tobacco products for final use.

27 (e) "Dealer" means any person who engages in the sale or manufac-
28 ture of cigarettes in the state of Kansas, and who is required to be licensed
29 under the provisions of this act.

30 (f) "Dealer establishment" means any location or premises, other
31 than vending machine locations, at or from which cigarettes are sold, and
32 where records are kept.

33 (g) "Director" means the director of taxation.

34 (h) "Distributor" means: (1) Any person engaged in the business of
35 selling tobacco products in this state who brings, or causes to be brought,
36 into this state from without the state any tobacco products for sale; (2)
37 any person who makes, manufactures, fabricates or stores tobacco prod-
38 ucts in this state for sale in this state; or (3) any person engaged in the
39 business of selling tobacco products without this state who ships or trans-
40 ports tobacco products to any person in the business of selling tobacco
41 products in this state.

42 (i) "Division" means the division of taxation.

43 (j) "License" means, in addition to the privilege of a licensee to sell

- 1 cigarettes or tobacco products in the state of Kansas, the written evidence
2 of such authority or privilege to so operate as evidenced by any license
3 issued by the director of taxation.
- 4 (k) "Licensee" means any person holding a current license issued
5 pursuant to this act.
- 6 (l) "Manufacturer's salesperson" means a person employed by a cig-
7 arette manufacturer who sells cigarettes, manufactured by such employer
8 and procured from wholesale dealers.
- 9 (m) "Meter imprints" means tax indicia applied by means of ink print-
10 ing machines.
- 11 (n) (1) "Package" means a container in which no more than 25 in-
12 dividual cigarettes are wrapped and sealed by the manufacturer of ciga-
13 rettes prior to shipment to a wholesale dealer.
- 14 (2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-
15 3321, and amendments thereto, "package" shall have the meaning as-
16 cribed thereto in 15 U.S.C. §1332(4).
- 17 (o) "Person" means any individual, partnership, society, association,
18 joint-stock company, corporation, estate, receiver, trustee, assignee, ref-
19 erree or any other person acting in a fiduciary or representative capacity
20 whether appointed by a court or otherwise and any combination of
21 individuals.
- 22 (p) "Received" means the coming to rest of cigarettes for sale by any
23 dealer in the state of Kansas.
- 24 (q) "Retail dealer" means a person, other than a vending machine
25 operator, in possession of cigarettes for the purpose of sale to a consumer.
- 26 (r) "Sale" means any transfer of title or possession or both, exchange,
27 barter, distribution or gift of cigarettes or tobacco products, with or with-
28 out consideration.
- 29 (s) "Sample" means cigarettes or tobacco products distributed to
30 members of the general public at no cost for purposes of promoting the
31 product.
- 32 (t) "Stamps" means tax indicia applied either by means of water ap-
33 plied gummed paper or heat process.
- 34 (u) "Tax indicia" means visible evidence of tax payment in the form
35 of stamps or meter imprints.
- 36 (v) "Tobacco products" means cigars, cheroots, stogies, periques;
37 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco;
38 *moist snuff and all other forms of snuff*, snuff flour; cavendish; plug and
39 twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps,
40 clippings, cuttings and sweepings of tobacco, and other kinds and forms
41 of tobacco, prepared in such manner as to be suitable for chewing or
42 smoking in a pipe or otherwise, or both for chewing and smoking. To-
43 bacco products does not include cigarettes.

- 1 (w) "Vending machine" means any coin operated machine, contri-
2 vance or device, by means of which merchandise may be sold.
- 3 (x) "Vending machine distributor" means any person who sells ciga-
4 rrette vending machines to a vending machine operator operating vending
5 machines in the state of Kansas.
- 6 (y) "Vending machine operator" means any person who places a
7 vending machine, owned, leased or operated by such person, at locations
8 where cigarettes are sold from the machine. The owner or lessee of the
9 premises upon which a vending machine is placed shall not be considered
10 the operator of the machine, nor shall the owner or lessee, or any em-
11 ployee or agent of the owner or lessee be considered an authorized agent
12 of the vending machine operator, if the owner or lessee does not own or
13 lease the machine and the owner's or lessee's sole remuneration from the
14 machine is a flat rental fee or commission based upon the number or
15 value of cigarettes sold from the machine, or a combination of both.
- 16 (z) "Wholesale dealer" means any person who sells cigarettes to other
17 wholesale dealers, retail dealers, vending machine operators and manu-
18 facturer's salespersons for the purpose of resale in the state of Kansas.
- 19 (aa) "Wholesale sales price" means the original net invoice price for
20 which a manufacturer sells a tobacco product to a distributor, as shown
21 by the manufacturer's original invoice.
- 22 (bb) "Importer" shall have the same meaning ascribed thereto in 26
23 U.S.C. §5702(l).
- 24 (cc) "Manufacturer" shall have the same meaning ascribed thereto in
25 26 U.S.C. §5702(d).
- 26 (dd) "*Moist snuff*" means any finely cut, ground or powdered smoke-
27 less tobacco that is intended to be placed or dipped in the oral cavity.
- 28 Sec. 2. K.S.A. 79-3371 is hereby amended to read as follows: 79-
29 3371. (a) A tax is hereby imposed upon the privilege of selling or dealing
30 in tobacco products in this state by any person engaged in business as a
31 distributor thereof, at the ~~rate of ten percent (10%)~~ following rates: (1)
32 *On moist snuff at the rate of \$.26 per ounce with a proportionate tax at*
33 *the same rate on all fractional parts of an ounce thereof, computed based*
34 *on the net weight listed by the manufacturer; and (2) on tobacco products*
35 *other than moist snuff, at the rate of 10% of the wholesale sales price of*
36 *such tobacco products. The weight-based tax on moist snuff imposed by*
37 *this section shall not apply to any moist snuff that was in the inventory*
38 *of a dealer or distributor in this state on July 1, 2007, as to which the tax*
39 *levied upon such moist snuff had been paid prior to July 1, 2007, pursuant*
40 *to the provisions of this section as such section existed prior to July 1,*
41 *2007.*
- 42 (b) Such tax shall be imposed at the time the distributor ~~(a)~~ (1) Brings
43 or causes to be brought into this state from without the state tobacco

1 products for sale; ~~(b)~~ (2) makes, manufactures, or fabricates tobacco prod-
2 ucts in this state for sale in this state; or ~~(c)~~ (3) ships or transports tobacco
3 products to retailers in this state to be sold by those retailers.

4 Sec. 3. K.S.A. 79-3371 and K.S.A. 2006 Supp. 79-3301 are hereby
5 repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.