

HOUSE BILL No. 2737

By Committee on Taxation

2-1

9 AN ACT increasing the rate of taxation imposed upon cigarettes and
10 tobacco products; creating the health reform fund; depositing money
11 into; amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2007 Supp.
12 79-3310, 79-3310c, 79-3311 and 79-3312 and repealing the existing
13 sections.

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

16 Section 1. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3310 is
17 hereby amended to read as follows: 79-3310. There is imposed a tax upon
18 all cigarettes sold, distributed or given away within the state of Kansas.
19 ~~On and after July 1, 2002, and before January 1, 2003, the rate of such~~
20 ~~tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875~~
21 ~~on each 25 cigarettes, as the case requires. On and after January 1, 2003~~
22 ~~July 1, 2008, the rate of such tax shall be \$.70~~ \$1.29 on each 20 cigarettes
23 or fractional part thereof or ~~\$.99~~ \$1.6125 on each 25 cigarettes, as the
24 case requires. *On and after July 1, 2009, the rate of such tax shall be \$1.33*
25 *on each 20 cigarettes or fractional part thereof or \$1.6625 on each 25*
26 *cigarettes, as the case requires. On and after July 1, 2010, the rate of such*
27 *tax shall be \$1.37 on each 20 cigarettes or fractional part thereof or*
28 *\$1.7125 on each 25 cigarettes, as the case requires. On and after July 1,*
29 *2011, the rate of such tax shall be \$1.41 on each 20 cigarettes or fractional*
30 *part thereof or \$1.7625 on each 25 cigarettes, as the case requires. On*
31 *and after July 1, 2012, the rate of such tax shall be \$1.45 on each 20*
32 *cigarettes or fractional part thereof or \$1.8125 on each 25 cigarettes, as*
33 *the case requires. On and after July 1, 2013, the rate of such tax shall be*
34 *\$1.49 on each 20 cigarettes or fractional part thereof or \$1.8625 on each*
35 *25 cigarettes, as the case requires.* Such tax shall be collected and paid to
36 the director as provided in this act. Such tax shall be paid only once and
37 shall be paid by the wholesale dealer first receiving the cigarettes as herein
38 provided.

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

43 Sec. 2. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3310c is

1 hereby amended to read as follows: 79-3310c. (1) On or before ~~July 30,~~
2 ~~2002, July 31, 2008~~, each wholesale dealer, retail dealer and vending
3 machine operator shall file a report with the director in such form as the
4 director may prescribe showing cigarettes, cigarette stamps and meter
5 imprints on hand at 12:01 a.m. on ~~July 1, 2002~~ *July 1, 2008*. A tax of ~~\$.46~~
6 ~~\$.50~~ on each 20 cigarettes or fractional part thereof or ~~\$.575~~ \$.625 on
7 each 25 cigarettes, as the case requires and ~~\$.46 or \$.575~~ *\$.50 or \$.625*,
8 as the case requires upon all tax stamps and all meter imprints purchased
9 from the director and not affixed to cigarettes prior to July 1, ~~2002~~ *2008*,
10 is hereby imposed and shall be due and payable in equal installments on
11 or before ~~July 30, 2002~~ *July 31, 2008*, on or before September 30, ~~2002~~
12 *2008*, and on or before December 30, ~~2002~~ *2008*. The tax imposed upon
13 such cigarettes, tax stamps and meter imprints shall be imposed only once
14 under this act. The director shall remit all moneys collected pursuant to
15 this section to the state treasurer who shall credit the entire amount
16 thereof to the state general fund.

17 ~~(2) On or before January 30, 2003, each wholesale dealer, retail~~
18 ~~dealer and vending machine operator shall file a report with the director~~
19 ~~in such form as the director may prescribe showing cigarettes, cigarette~~
20 ~~stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A~~
21 ~~tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on~~
22 ~~each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case~~
23 ~~requires upon all tax stamps and all meter imprints purchased from the~~
24 ~~director and not affixed to cigarettes prior to January 1, 2003, is hereby~~
25 ~~imposed and shall be due and payable in equal installments on or before~~
26 ~~January 30, 2003, on or before March 30, 2003, and on or before June~~
27 ~~30, 2003. The tax imposed upon such cigarettes, tax stamps and meter~~
28 ~~imprints shall be imposed only once under this act. The director shall~~
29 ~~remit all moneys collected pursuant to this section to the state treasurer~~
30 ~~who shall credit the entire amount thereof to the state general fund. On~~
31 ~~or before July 31, 2009, each wholesale dealer, retail dealer and vending~~
32 ~~machine operator shall file a report with the director in such form as the~~
33 ~~director may prescribe showing cigarettes, cigarette stamps and meter~~
34 ~~imprints on hand at 12:01a.m. on July 1, 2009. A tax of \$.04 on each 20~~
35 ~~cigarettes or fractional part thereof or \$.05 on each 25 cigarettes, as the~~
36 ~~case requires and \$.04 and \$.05, as the case requires upon all tax stamps~~
37 ~~and all meter imprints purchased from the director and not affixed to~~
38 ~~cigarettes prior to July 1, 2009, is hereby imposed and shall be due and~~
39 ~~payable in equal installments on or before July 31, 2009, on or before~~
40 ~~September 30, 2009, and on or before December 30, 2009. The tax im-~~
41 ~~posed upon such cigarettes, tax stamps and meter imprints shall be im-~~
42 ~~posed only once under this act. The director shall remit all moneys col-~~
43 ~~lected pursuant to this act to the state treasurer who shall credit the entire~~

1 *amount thereof to the state general fund.*

2 (3) *On or before July 31, 2010, each wholesale dealer, retail dealer*
3 *and vending machine operator shall file a report with the director in such*
4 *form as the director may prescribe showing cigarettes, cigarette stamps*
5 *and meter imprints on hand at 12:01a.m. on July 1, 2010. A tax of \$.04*
6 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*
7 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*
8 *all tax stamps and all meter imprints purchased from the director and not*
9 *affixed to cigarettes prior to July 1, 2010, is hereby imposed and shall be*
10 *due and payable in equal installments on or before July 31, 2010, on or*
11 *before September 30, 2010, and on or before December 30, 2010. The tax*
12 *imposed upon such cigarettes, tax stamps and meter imprints shall be*
13 *imposed only once under this act. The director shall remit all moneys*
14 *collected pursuant to this act to the state treasurer who shall credit the*
15 *entire amount thereof to the state general fund.*

16 (4) *On or before July 31, 2011, each wholesale dealer, retail dealer*
17 *and vending machine operator shall file a report with the director in such*
18 *form as the director may prescribe showing cigarettes, cigarette stamps*
19 *and meter imprints on hand at 12:01a.m. on July 1, 2011. A tax of \$.04*
20 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*
21 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*
22 *all tax stamps and all meter imprints purchased from the director and not*
23 *affixed to cigarettes prior to July 1, 2011, is hereby imposed and shall be*
24 *due and payable in equal installments on or before July 31, 2011, on or*
25 *before September 30, 2011, and on or before December 30, 2011. The tax*
26 *imposed upon such cigarettes, tax stamps and meter imprints shall be*
27 *imposed only once under this act. The director shall remit all moneys*
28 *collected pursuant to this act to the state treasurer who shall credit the*
29 *entire amount thereof to the state general fund.*

30 (5) *On or before July 31, 2012, each wholesale dealer, retail dealer*
31 *and vending machine operator shall file a report with the director in such*
32 *form as the director may prescribe showing cigarettes, cigarette stamps*
33 *and meter imprints on hand at 12:01a.m. on July 1, 2012. A tax of \$.04*
34 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*
35 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*
36 *all tax stamps and all meter imprints purchased from the director and not*
37 *affixed to cigarettes prior to July 1, 2012, is hereby imposed and shall be*
38 *due and payable in equal installments on or before July 31, 2012, on or*
39 *before September 30, 2012, and on or before December 30, 2012. The tax*
40 *imposed upon such cigarettes, tax stamps and meter imprints shall be*
41 *imposed only once under this act. The director shall remit all moneys*
42 *collected pursuant to this act to the state treasurer who shall credit the*
43 *entire amount thereof to the state general fund.*

1 (6) *On or before July 31, 2013, each wholesale dealer, retail dealer*
2 *and vending machine operator shall file a report with the director in such*
3 *form as the director may prescribe showing cigarettes, cigarette stamps*
4 *and meter imprints on hand at 12:01a.m. on July 1, 2013. A tax of \$.04*
5 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*
6 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*
7 *all tax stamps and all meter imprints purchased from the director and not*
8 *affixed to cigarettes prior to July 1, 2013, is hereby imposed and shall be*
9 *due and payable in equal installments on or before July 31, 2013, on or*
10 *before September 30, 2013, and on or before December 30, 2013. The tax*
11 *imposed upon such cigarettes, tax stamps and meter imprints shall be*
12 *imposed only once under this act. The director shall remit all moneys*
13 *collected pursuant to this act to the state treasurer who shall credit the*
14 *entire amount thereof to the state general fund.*

15 Sec. 3. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3311 is
16 hereby amended to read as follows: 79-3311. The director shall design
17 and designate indicia of tax payment to be affixed to each package of
18 cigarettes as provided by this act. The director shall sell water applied
19 stamps only to licensed wholesale dealers in the amounts of 1,000 or
20 multiples thereof. Stamps applied by the heat process shall be sold only
21 in amounts of 30,000 or multiples thereof, except that such stamps which
22 are suitable for packages containing 25 cigarettes each shall be sold in
23 amounts prescribed by the director. Meter imprints shall be sold only in
24 amounts of 10,000 or multiples thereof. Water applied stamps in amounts
25 of 10,000 or multiples thereof and stamps applied by the heat process
26 and meter imprints shall be supplied to wholesale dealers at a discount
27 ~~of .90% on and after July 1, 2002, and before January 1, 2003, and .80%~~
28 *.48% on and after July 1, 2008, .47% on and after July 1, 2009, .46% on*
29 *and after July 1, 2010, .45% on and after July 1, 2011, .44% on and after*
30 *July 1, 2012, .43% on and after July 1, 2013, and thereafter from the face*
31 *value thereof, and shall be deducted at the time of purchase or from the*
32 *remittance therefor as hereinafter provided. Any wholesale cigarette*
33 *dealer who shall file with the director a bond, of acceptable form, payable*
34 *to the state of Kansas with a corporate surety authorized to do business*
35 *in Kansas, shall be permitted to purchase stamps, and remit therefor to*
36 *the director within 30 days after each such purchase, up to a maximum*
37 *outstanding at any one time of 85% of the amount of the bond. Failure*
38 *on the part of any wholesale dealer to remit as herein specified shall be*
39 *cause for forfeiture of such dealer's bond. All revenue received from the*
40 *sale of such stamps or meter imprints shall be remitted to the state trea-*
41 *surer in accordance with the provisions of K.S.A. 75-4215, and amend-*
42 *ments thereto. Upon receipt of each such remittance, the state treasurer*
43 *shall deposit the entire amount in the state treasury. The state treasurer*

1 shall first credit such amount as the director shall order to the cigarette
2 tax refund fund and shall credit the remaining balance to the state general
3 fund. A refund fund designated the cigarette tax refund fund not to ex-
4 ceed \$10,000 at any time shall be set apart and maintained by the director
5 from taxes collected under this act and held by the state treasurer for
6 prompt payment of all refunds authorized by this act. Such cigarette tax
7 refund fund shall be in such amount as the director shall determine is
8 necessary to meet current refunding requirements under this act.

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

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

39 Sec. 4. On and after July 1, 2008, K.S.A. 2007 Supp. 79-3312 is
40 hereby amended to read as follows: 79-3312. The director shall redeem
41 any unused stamps or meter imprints that any wholesale dealer presents
42 for redemption within six months after the purchase thereof, at the face
43 value less .90% on and after July 1, 2002, and before January 1, 2003, and

1 ~~.80%~~ .48% and and after July 1, 2008, .47% on and after July 1, 2009,
 2 .46% on and after July 1, 2010, .45% on and after July 1, 2011, .44% on
 3 and after July 1, 2012, .43% on and after July 1, 2013, and thereafter
 4 thereof if such stamps or meter imprints have been purchased from the
 5 director. The director shall prepare a voucher showing the net amount
 6 of such refund due, and the director of accounts and reports shall draw
 7 a warrant on the state treasurer for the same. Wholesale dealers shall be
 8 entitled to a refund of the tax paid on cigarettes which have become unfit
 9 for sale upon proof thereof less ~~.90% on and after July 1, 2002, and before~~
 10 ~~January 1, 2003, and .80%~~ .48% and and after July 1, 2008, .47% on and
 11 after July 1, 2009, .46% on and after July 1, 2010, .45% on and after July
 12 1, 2011, .44% on and after July 1, 2012, .43% on and after July 1, 2013,
 13 and thereafter of such tax.

14 Sec. 5. On and after July 1, 2008, K.S.A. 79-3371 is hereby amended
 15 to read as follows: 79-3371. A tax is hereby imposed upon the privilege
 16 of selling or dealing in tobacco products in this state by any person en-
 17 gaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~
 18 57% of the wholesale sales price of such tobacco products. Such tax shall
 19 be imposed at the time the distributor (a) brings or causes to be brought
 20 into this state from without the state tobacco products for sale; (b) makes,
 21 manufactures, or fabricates tobacco products in this state for sale in this
 22 state; or (c) ships or transports tobacco products to retailers in this state
 23 to be sold by those retailers.

24 New Sec. 6. On or before July 31, 2008, each distributor having a
 25 place of business in this state shall file a report with the director in such
 26 form as the director may prescribe, showing the tobacco products on hand
 27 at 12:01 a.m. on July 1, 2008. A tax at a rate equal to 47% of the wholesale
 28 sales price of such tobacco products is hereby imposed upon such tobacco
 29 products and shall be due and payable on or before July 31, 2008. The
 30 tax upon such tobacco products shall be imposed only once under this
 31 act. The director shall remit all moneys collected pursuant to this section
 32 to the state treasurer who shall credit the entire amount thereof to the
 33 state general fund.

34 Sec. 7. On and after July 1, 2008, K.S.A. 79-3378 is hereby amended
 35 to read as follows: 79-3378. On or before the ~~twentieth day~~ 20th day of
 36 each calendar month every distributor with a place of business in this
 37 state shall file a return with the director showing the quantity and whole-
 38 sale sales price of each tobacco product (1) brought, or caused to be
 39 brought, into this state for sale; and (2) made, manufactured, or fabricated
 40 in this state for sale in this state during the preceding calendar month.
 41 Every licensed distributor outside this state shall in like manner file a
 42 return showing the quantity and wholesale sales price of each tobacco
 43 product shipped or transported to retailers in this state to be sold by those

1 retailers, during the preceding calendar month. Returns shall be made
2 upon forms furnished and prescribed by the director. Each return shall
3 be accompanied by a remittance for the full tax liability shown therein,
4 less ~~four percent (4%)~~ .7% of such liability as compensation to reimburse
5 the distributor for ~~his or her~~ expenses incurred in the administration of
6 this act. As soon as practicable after any return is filed, the director shall
7 examine the return. If the director finds that, ~~in his or her judgment~~, the
8 return is incorrect and any amount of tax is due from the distributor and
9 unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency.
10 If a deficiency disclosed by the director's examination cannot be allocated
11 by ~~him~~ the director to a particular month or months, ~~he or she~~ the director
12 may ~~nevertheless~~ notify the distributor that a deficiency exists and state
13 the amount of tax due. Such notice shall be given to the distributor by
14 registered or certified mail.

15 New Sec. 8. (a) There is hereby created in the state treasury the
16 health reform fund which shall be administered by the Kansas health
17 policy authority. All expenditures from the health reform fund shall be
18 made in accordance with appropriation acts upon warrants of the director
19 of accounts and reports issued pursuant to vouchers approved by the
20 Kansas health policy authority or its designee.

21 (b) On or before the 10th day of each month, the director of accounts
22 and reports shall transfer from the state general fund to the health reform
23 fund interest earnings based on (1) the average daily balance of moneys
24 in the health reform fund and (2) the net earnings of the pooled money
25 investment portfolio for the preceding month.

26 (c) On January 1, 2009, the director of accounts and reports shall
27 transfer \$61.57 million from the state general fund to the health reform
28 fund. On January 1, 2010, the director of accounts and reports shall trans-
29 fer \$68.62 million from the state general fund to the health reform fund.
30 On January 1, 2011, the director of accounts and reports shall transfer
31 \$68.24 million from the state general fund to the health reform fund. On
32 January 1, 2012, the director of accounts and reports shall transfer \$67.80
33 million from the state general fund to the health reform fund. On January
34 1, 2013, the director of accounts and reports shall transfer \$67.37 million
35 from the state general fund to the health reform fund. On January 1,
36 2014, and each January 1 thereafter, the director of accounts and reports
37 shall transfer \$66.95 million from the state general fund to the health
38 reform fund. All such transfers are subject to reduction under K.S.A. 75-
39 6704, and amendments thereto.

40 Sec. 9. On and after July 1, 2008, K.S.A. 79-3371 and 79-3378 and
41 K.S.A. 2007 Supp. 79-3310, 79-3310c, 79-3311 and 79-3312 are hereby
42 repealed.

43

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