

## HOUSE BILL No. 2175

By Committee on Taxation

1-29

---

9 AN ACT concerning employment; relating to misclassification of em-  
10 ployees; amending K.S.A. 2008 Supp. 79-3234 and repealing the ex-  
11 isting section; also repealing K.S.A. 2008 Supp. 44-766.  
12

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

14 Section 1. K.S.A. 2008 Supp. 79-3234 is hereby amended to read as  
15 follows: 79-3234. (a) All reports and returns required by this act shall be  
16 preserved for three years and thereafter until the director orders them  
17 to be destroyed.

18 (b) Except in accordance with proper judicial order, or as provided  
19 in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,  
20 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall  
21 be unlawful for the secretary, the director, any deputy, agent, clerk or  
22 other officer, employee or former employee of the department of revenue  
23 or any other state officer or employee or former state officer or employee  
24 to divulge, or to make known in any way, the amount of income or any  
25 particulars set forth or disclosed in any report, return, federal return or  
26 federal return information required under this act; and it shall be unlawful  
27 for the secretary, the director, any deputy, agent, clerk or other officer  
28 or employee engaged in the administration of this act to engage in the  
29 business or profession of tax accounting or to accept employment, with  
30 or without consideration, from any person, firm or corporation for the  
31 purpose, directly or indirectly, of preparing tax returns or reports required  
32 by the laws of the state of Kansas, by any other state or by the United  
33 States government, or to accept any employment for the purpose of ad-  
34 vising, preparing material or data, or the auditing of books or records to  
35 be used in an effort to defeat or cancel any tax or part thereof that has  
36 been assessed by the state of Kansas, any other state or by the United  
37 States government.

38 (c) The secretary or the secretary's designee may: (1) Publish statis-  
39 tics, so classified as to prevent the identification of particular reports or  
40 returns and the items thereof;

41 (2) allow the inspection of returns by the attorney general or other  
42 legal representatives of the state;

43 (3) provide the post auditor access to all income tax reports or returns

1 in accordance with and subject to the provisions of subsection (g) of  
2 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

3 (4) disclose taxpayer information from income tax returns to persons  
4 or entities contracting with the secretary of revenue where the secretary  
5 has determined disclosure of such information is essential for completion  
6 of the contract and has taken appropriate steps to preserve confidentiality;

7 (5) disclose to the secretary of commerce specific taxpayer informa-  
8 tion related to financial information previously submitted by the taxpayer  
9 to the secretary of commerce concerning or relevant to any income tax  
10 credits, for purposes of verification of such information or evaluating the  
11 effectiveness of any tax credit program administered by the secretary of  
12 commerce;

13 (6) disclose income tax returns to the state gaming agency to be used  
14 solely for the purpose of determining qualifications of licensees of and  
15 applicants for licensure in tribal gaming. Any information received by the  
16 state gaming agency shall be confidential and shall not be disclosed except  
17 to the executive director, employees of the state gaming agency and mem-  
18 bers and employees of the tribal gaming commission;

19 (7) disclose the taxpayer's name, last known address and residency  
20 status to the department of wildlife and parks to be used solely in its  
21 license fraud investigations;

22 (8) disclose the name, residence address, employer or Kansas ad-  
23 justed gross income of a taxpayer who may have a duty of support in a  
24 title IV-D case to the secretary of the Kansas department of social and  
25 rehabilitation services for use solely in administrative or judicial proceed-  
26 ings to establish, modify or enforce such support obligation in a title IV-  
27 D case. In addition to any other limits on use, such use shall be allowed  
28 only where subject to a protective order which prohibits disclosure out-  
29 side of the title IV-D proceeding. As used in this section, "title IV-D  
30 case" means a case being administered pursuant to part D of title IV of  
31 the federal social security act (42 U.S.C. §651 et seq.) and amendments  
32 thereto. Any person receiving any information under the provisions of  
33 this subsection shall be subject to the confidentiality provisions of sub-  
34 section (b) and to the penalty provisions of subsection (e);

35 (9) permit the commissioner of internal revenue of the United States,  
36 or the proper official of any state imposing an income tax, or the author-  
37 ized representative of either, to inspect the income tax returns made  
38 under this act and the secretary of revenue may make available or furnish  
39 to the taxing officials of any other state or the commissioner of internal  
40 revenue of the United States or other taxing officials of the federal gov-  
41 ernment, or their authorized representatives, information contained in  
42 income tax reports or returns or any audit thereof or the report of any  
43 investigation made with respect thereto, filed pursuant to the income tax

1 laws, as the secretary may consider proper, but such information shall not  
2 be used for any other purpose than that of the administration of tax laws  
3 of such state, the state of Kansas or of the United States;

4 (10) communicate to the executive director of the Kansas lottery in-  
5 formation as to whether a person, partnership or corporation is current  
6 in the filing of all applicable tax returns and in the payment of all taxes,  
7 interest and penalties to the state of Kansas, excluding items under formal  
8 appeal, for the purpose of determining whether such person, partnership  
9 or corporation is eligible to be selected as a lottery retailer;

10 (11) communicate to the executive director of the Kansas racing com-  
11 mission as to whether a person, partnership or corporation has failed to  
12 meet any tax obligation to the state of Kansas for the purpose of deter-  
13 mining whether such person, partnership or corporation is eligible for a  
14 facility owner license or facility manager license pursuant to the Kansas  
15 parimutuel racing act; *and*

16 (12) provide such information to the executive director of the Kansas  
17 public employees retirement system for the purpose of determining that  
18 certain individuals' reported compensation is in compliance with the Kan-  
19 sas public employees retirement act at K.S.A. 74-4901 et seq., and amend-  
20 ments thereto; *and*

21 ~~(13) provide taxpayer information of persons suspected of violating~~  
22 ~~K.S.A. 2008 Supp. 44-766, and amendments thereto, to the staff attorneys~~  
23 ~~of the department of labor for the purpose of determining compliance~~  
24 ~~by any person with the provisions of K.S.A. 2008 Supp. 44-766, and~~  
25 ~~amendments thereto, which information shall be limited to withholding~~  
26 ~~tax and payroll information, the identity of any person that has been or~~  
27 ~~is currently being audited or investigated in connection with the admin-~~  
28 ~~istration and enforcement of the withholding and declaration of estimated~~  
29 ~~tax act, K.S.A. 79-3294 et seq., as amended, and the results or status of~~  
30 ~~such audit or investigation.~~

31 (d) Any person receiving information under the provisions of subsec-  
32 tion (c) shall be subject to the confidentiality provisions of subsection (b)  
33 and to the penalty provisions of subsection (e).

34 (e) Any violation of subsection (b) or (c) is a class A nonperson mis-  
35 demeanor and, if the offender is an officer or employee of the state, such  
36 officer or employee shall be dismissed from office.

37 (f) Nothing in this section shall be construed to allow disclosure of  
38 the amount of income or any particulars set forth or disclosed in any  
39 report, return, federal return or federal return information, where such  
40 disclosure is prohibited by the federal internal revenue code as in effect  
41 on September 1, 1996, and amendments thereto, related federal internal  
42 revenue rules or regulations, or other federal law.

43 Sec. 2. K.S.A. 2008 Supp. 44-766 and 79-3234 are hereby repealed.

1     Sec. 3. This act shall take effect and be in force from and after its  
2     publication in the statute book.