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3 **SENATE BILL No. 413**

4  
5 By Committee on Federal and State Affairs

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7 1-21

8  
9 AN ACT concerning taxation upon certain tobacco products; relating to  
10 moist snuff; amending K.S.A. 79-3371 and K.S.A. 2009 Supp. 79-3301  
11 and repealing the existing sections.

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

14 Section 1. K.S.A. 2009 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) *“Moist snuff” means any finely cut, ground or powdered tobacco*  
12 *that is not intended to be smoked. Moist snuff shall not include any finely*  
13 *cut, ground or powdered tobacco that is intended to be placed in a nasal*  
14 *cavity.*
- 15 ~~(o)~~ (1) “Package” means a container in which no more than 25  
16 individual cigarettes are wrapped and sealed by the manufacturer of cig-  
17 arettes prior to shipment to a wholesale dealer.
- 18 (2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-  
19 3321, and amendments thereto, “package” ~~shall have the meaning as-~~  
20 ~~cribed thereto~~ *means the same as provided* in 15 U.S.C. §1332(4).
- 21 ~~(p)~~ (p) “Person” means any individual, partnership, society, associa-  
22 tion, joint-stock company, corporation, estate, receiver, trustee, assignee,  
23 referee or any other person acting in a fiduciary or representative capacity  
24 whether appointed by a court or otherwise and any combination of  
25 individuals.
- 26 ~~(q)~~ (q) “Received” means the coming to rest of cigarettes for sale by  
27 any dealer in the state of Kansas.
- 28 ~~(r)~~ (r) “Retail dealer” means a person, other than a vending machine  
29 operator, in possession of cigarettes for the purpose of sale to a consumer.
- 30 ~~(s)~~ (s) “Sale” means any transfer of title or possession or both,  
31 exchange, barter, distribution or gift of cigarettes or tobacco products,  
32 with or without consideration.
- 33 ~~(t)~~ (t) “Sample” means cigarettes or tobacco products distributed to  
34 members of the general public at no cost for purposes of promoting the  
35 product.
- 36 ~~(u)~~ (u) “Stamps” means tax indicia applied either by means of water  
37 applied gummed paper or heat process.
- 38 ~~(v)~~ (v) “Tax indicia” means visible evidence of tax payment in the  
39 form of stamps or meter imprints.
- 40 ~~(w)~~ (w) “Tobacco products” means cigars, cheroots, stogies, periques;  
41 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco;  
42 snuff, *including moist snuff*, snuff flour; cavendish; plug and twist tobacco;  
43 fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cut-

1 tings and sweepings of tobacco, and other kinds and forms of tobacco,  
 2 prepared in such manner as to be suitable for chewing or smoking in a  
 3 pipe or otherwise, or both for chewing and smoking. Tobacco products  
 4 does not include cigarettes.

5 ~~(w)~~ (x) “Vending machine” means any coin operated machine, con-  
 6 trivance or device, by means of which merchandise may be sold.

7 ~~(x)~~ (y) “Vending machine distributor” means any person who sells  
 8 cigarette vending machines to a vending machine operator operating  
 9 vending machines in the state of Kansas.

10 ~~(y)~~ (z) “Vending machine operator” means any person who places a  
 11 vending machine, owned, leased or operated by such person, at locations  
 12 where cigarettes are sold from the machine. The owner or lessee of the  
 13 premises upon which a vending machine is placed shall not be considered  
 14 the operator of the machine, nor shall the owner or lessee, or any em-  
 15 ployee or agent of the owner or lessee be considered an authorized agent  
 16 of the vending machine operator, if the owner or lessee does not own or  
 17 lease the machine and the owner’s or lessee’s sole remuneration from the  
 18 machine is a flat rental fee or commission based upon the number or  
 19 value of cigarettes sold from the machine, or a combination of both.

20 ~~(z)~~ (aa) “Wholesale dealer” means any person who sells cigarettes to  
 21 other wholesale dealers, retail dealers, vending machine operators and  
 22 manufacturer’s salespersons for the purpose of resale in the state of  
 23 Kansas.

24 ~~(aa)~~ (bb) “Wholesale sales price” means the original net invoice price  
 25 for which a manufacturer sells a tobacco product to a distributor, as shown  
 26 by the manufacturer’s original invoice.

27 ~~(bb)~~ (cc) “Importer” ~~shall have the same meaning ascribed thereto~~  
 28 ~~means the same as provided in 26 U.S.C. §5702(l).~~

29 ~~(cc)~~ (dd) “Manufacturer” ~~shall have the same meaning ascribed~~  
 30 ~~thereto means the same as provided in 26 U.S.C. §5702(d).~~

31 Sec. 2. K.S.A. 79-3371 is hereby amended to read as follows: 79-  
 32 3371. A tax is hereby imposed upon the privilege of selling or dealing in  
 33 tobacco products in this state by any person engaged in business as a  
 34 distributor thereof. *The tax on tobacco products other than moist snuff*  
 35 *shall be at the rate of ten percent (10%) 10% of the wholesale sales price*  
 36 *of such tobacco products. Such tax The tax on moist snuff shall be at the*  
 37 *rate of \$.20 for each ounce of moist snuff and a proportionate tax at the*  
 38 *same rate on all fractional parts of an ounce of moist snuff. Taxes imposed*  
 39 *under this section shall be imposed at the time the distributor: (a) Brings*  
 40 *or causes to be brought into this state from without the state tobacco*  
 41 *products for sale; (b) makes, manufactures, or fabricates tobacco products*  
 42 *in this state for sale in this state; or (c) ships or transports tobacco products*  
 43 *to retailers in this state to be sold by those retailers.*

1     Sec. 3. K.S.A. 79-3371 and K.S.A. 2009 Supp. 79-3301 are hereby  
2 repealed.

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

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