

SENATE BILL No. 355

By Committee on Federal and State Affairs

1-21

1 AN ACT concerning cigarettes, electronic cigarettes and tobacco products;
2 regulating the manufacture, wholesale and distribution of electronic
3 cigarettes; requiring all wholesales of cigarettes, electronic cigarettes,
4 smokeless tobacco and roll-your-own tobacco to be transacted between
5 licensees under the Kansas cigarette and tobacco product act; requiring
6 the licensure of electronic cigarette manufacturers; ***prohibiting the sale***
7 ***of e-cigarettes marketed to minors***; amending K.S.A. 79-3301, 79-
8 3302, 79-3333, 79-3334 and 79-3373 and ***K.S.A. 2025 Supp. 79-3321***
9 ***and*** repealing the existing sections.

10

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

12 New Section 1. (a) Every electronic cigarette manufacturer that
13 engages in the sale of electronic cigarettes in this state either directly or
14 through a distributor, retailer or a similar intermediary shall obtain an
15 electronic cigarette manufacturer license from the director. Every
16 application for such license shall be made on a form prescribed by the
17 director and shall state:

- 18 (1) The name and address of the applicant;
19 (2) if the applicant is a firm, partnership or association, the name and
20 address of each member thereof;
21 (3) if the applicant is a corporation, the name and address of each
22 corporate officer;
23 (4) the address of the applicant's principal place of business;
24 (5) the place where the business to be licensed is to be conducted; and
25 (6) such other information as the director may require for the purpose
26 of the administration of this act.

27 (b) A person outside this state who ships or transports electronic
28 cigarettes to distributors or retailers in this state, to be sold by such
29 distributors or retailers, may make application for license as an electronic
30 cigarette manufacturer, be granted such a license by the director and
31 thereafter be subject to all the provisions of this act and entitled to act as a
32 licensed electronic cigarette manufacturer if the person files with the
33 application proof that the person has appointed the secretary of state as the
34 person's agent for service of process relating to any matter or issue arising

1 under this act.

2 (c) Each application for an electronic cigarette manufacturer's license
3 shall be accompanied by a fee of ~~\$500~~ **\$2,500**. The application shall also
4 be accompanied by a corporate surety bond issued by a surety company
5 authorized to do business in this state, conditioned for the payment when
6 due of all taxes, penalties and accrued interest that may be due the state.
7 The bond shall be in an amount to be determined by the director and in a
8 form prescribed by the director. Whenever it is the opinion of the director
9 that the bond given by a licensee is inadequate in amount to fully protect
10 the state, the director shall require an additional bond in such amount as
11 the director deems sufficient. A separate application for a license shall be
12 made for each place of business at which an electronic cigarette
13 manufacturer proposes to engage in business under this act, but an
14 applicant may provide one bond in an amount determined by the director
15 for all applications made by such applicant. A person applying for a license
16 between June 30 and December 31 of any year shall be required to pay
17 only $\frac{1}{2}$ of the license fee.

18 (d) Upon receipt of an application in proper form and payment of the
19 required license fee, the director shall, unless otherwise provided by this
20 act, issue a license to the applicant, which shall permit the applicant to
21 engage in business as an electronic cigarette manufacturer at the place of
22 business shown on the license. Each license shall expire on December 31
23 following the date such license is issued unless such license is revoked by
24 the director or the business is transferred. In either case, the holder of the
25 license shall immediately surrender such license to the director. Each
26 license shall be prominently displayed on the premises named on the
27 license. No license shall be transferable to any other person.

28 (e) This section shall be a part of and supplemental to the Kansas
29 cigarette and tobacco products act.

30 Sec. 2. K.S.A. 79-3301 is hereby amended to read as follows: 79-
31 3301. As used in K.S.A. 79-3301 et seq., and amendments thereto:

32 (a) "Act" means the Kansas cigarette and tobacco products act.

33 (b) "Carrier" means one who transports cigarettes from a
34 manufacturer to a wholesale dealer or from one wholesale dealer to
35 another.

36 (c) "Carton" means the container used by the manufacturer of
37 cigarettes in which no more than 10 packages of cigarettes are placed prior
38 to shipment from such manufacturer.

39 (d) "Cigarette" means any roll for smoking, made wholly or in part of
40 tobacco, irrespective of size or shape, and irrespective of tobacco being
41 flavored, adulterated or mixed with any other ingredient if the wrapper is
42 in greater part made of any material except tobacco.

43 (e) "Conspicuous location or place" means a location or place

1 available to the general public.

2 (f) "Consumer" means the person purchasing or receiving cigarettes
3 or tobacco products for final use.

4 (g) "Contracting entity" means any public or private person, firm or
5 entity that has entered into a contract with the secretary of revenue to
6 provide services.

7 (h) "Dealer" means any person who engages in the sale or
8 manufacture of cigarettes, tobacco products or electronic cigarettes in the
9 state of Kansas, and who is required to be licensed under the provisions of
10 this act.

11 (i) "Dealer establishment" means any location or premises, other than
12 vending machine locations, at or from which cigarettes, tobacco products
13 or electronic cigarettes are sold, and where records are kept.

14 (j) "Director" means the director of taxation.

15 (k) "Distributor" means:

16 (1) Any person engaged in the business of selling tobacco products
17 *or electronic cigarettes* in this state who brings, or causes to be brought,
18 into this state from outside the state any tobacco products *or electronic*
19 *cigarettes* for sale;

20 (2) any person who makes, manufactures, fabricates or stores tobacco
21 products *or electronic cigarettes* in this state for sale in this state; or

22 (3) any person engaged in the business of selling tobacco products *or*
23 *electronic cigarettes* outside this state who ships or transports tobacco
24 products *or electronic cigarettes* to any person in the business of selling
25 tobacco products *or electronic cigarettes* in this state.

26 (l) "Division" means the division of taxation.

27 (m) "Electronic cigarette" means a battery-powered device, whether
28 or not such device is shaped like a cigarette, that can provide inhaled doses
29 of nicotine by delivering a vaporized solution by means of cartridges or
30 other chemical delivery systems.

31 (n) "*Electronic cigarette manufacturer*" means any person engaged in
32 *the business of manufacturing, fabricating, assembling, processing or*
33 *labeling electronic cigarettes for sale in this state.*

34 (o) "Importer" means the same as provided in 26 U.S.C. § 5702(k).

35 ~~(p)~~(p) "License" means the privilege of a licensee to sell cigarettes or
36 tobacco products in the state of Kansas, and the written evidence of such
37 authority or privilege as issued by the director.

38 ~~(q)~~(q) "Licensee" means any person holding a current license issued
39 pursuant to this act.

40 ~~(r)~~(r) "Manufacturer" means the same as provided in 26 U.S.C. §
41 5702(d).

42 ~~(s)~~(s) "Manufacturer's salesperson" means a person employed by a
43 cigarette manufacturer who sells cigarettes, manufactured by such

1 employer and procured from wholesale dealers.

2 ~~(s)~~(t) (1) "Package" means a container in which no more than 25
3 individual cigarettes are wrapped and sealed by the manufacturer of
4 cigarettes prior to shipment to a wholesale dealer; *and*

5 (2) for the purposes of K.S.A. 79-3321(v) and (w), and amendments
6 thereto, "package" means the same as provided in 15 U.S.C. § 1332(4).

7 ~~(t)~~(u) "Person" means any individual, partnership, society,
8 association, joint-stock company, corporation, estate, receiver, trustee,
9 assignee, referee or any other person acting in a fiduciary or representative
10 capacity whether appointed by a court or otherwise and any combination
11 of individuals.

12 ~~(u)~~(v) "Received" means the coming to rest of cigarettes for sale by
13 any dealer in the state of Kansas.

14 ~~(v)~~(w) "Retail dealer" or "retailers" means a person, other than a
15 vending machine operator, in possession of cigarettes or electronic
16 cigarettes for the purpose of sale to a consumer.

17 ~~(w)~~(x) "Sale" means any transfer of title or possession or both,
18 exchange, barter, distribution or gift of cigarettes, tobacco products or
19 electronic cigarettes, with or without consideration.

20 ~~(x)~~(y) "Sample" means cigarettes or tobacco products distributed to
21 members of the general public at no cost for purposes of promoting the
22 product.

23 ~~(y)~~(z) "Self-service display" means a display that contains cigarettes
24 or tobacco products and is located in an area openly accessible to a retail
25 dealer's consumers, and from which such consumers can readily access
26 cigarettes or tobacco products without the assistance of a salesperson, and
27 which is knowingly utilized by the retail dealer to market and sell
28 cigarettes and tobacco products to consumers. A display case that holds
29 cigarettes or tobacco products behind locked doors does not constitute a
30 self-service display.

31 ~~(z)~~(aa) "Stamps" means tax indicia applied by means of heat process,
32 pressure or any other process approved by the director.

33 ~~(aa)~~(bb) "Tax indicia" means visible evidence of tax payment in the
34 form of stamps.

35 ~~(bb)~~(cc) "Tobacco products" means cigars, cheroots, stogies,
36 periques; granulated, plug cut, crimp cut, ready rubbed and other smoking
37 tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and
38 other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and
39 sweepings of tobacco, and other kinds and forms of tobacco, prepared in
40 such manner as to be suitable for chewing or smoking in a pipe or
41 otherwise, or both for chewing and smoking. Tobacco products do not
42 include cigarettes.

43 ~~(ee)~~(dd) "Tobacco specialty store" means a dealer establishment that

1 derives at least 65% of such dealer establishment's revenue from cigarettes
2 or tobacco products.

3 ~~(dd)~~(ee) "Vending machine" means any coin operated machine,
4 contrivance or device, by means of which merchandise may be sold.

5 ~~(ee)~~(ff) "Vending machine distributor" means any person who sells
6 cigarette vending machines to a vending machine operator operating
7 vending machines in the state of Kansas.

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

18 ~~(gg)~~(hh) "Wholesale dealer" means any person who sells cigarettes to
19 other wholesale dealers, retail dealers, vending machine operators and
20 manufacturer's salespersons for the purpose of resale in the state of
21 Kansas.

22 ~~(hh)~~(ii) "Wholesale sales price" means the original net invoice price
23 for which a manufacturer sells a tobacco product to a distributor, as shown
24 by the manufacturer's original invoice.

25 Sec. 3. K.S.A. 79-3302 is hereby amended to read as follows: 79-
26 3302. (a) K.S.A. 79-3301 through 79-3304, 79-3306, 79-3309, 79-3310,
27 79-3311, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321, 79-3322, 79-
28 3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3333, 79-3335, 79-3371,
29 79-3373, 79-3374, 79-3375, 79-3377, 79-3378, 79-3379, 79-3387, 79-
30 3388, 79-3391, 79-3392, 79-3393, 79-3394 and K.S.A. 79-3311a, 79-
31 3336, 79-3395 through 79-3399, and 79-33,100, and amendments thereto,
32 *and section 1, and amendments thereto*, shall be known and may be cited
33 as the Kansas cigarette and tobacco products act.

34 (b) It is the purpose and intent of this act to regulate the sale of
35 cigarettes and tobacco products in this state and to impose a tax thereon.

36 ***Sec. 4. K.S.A. 2025 Supp. 79-3321 is hereby amended to read as***
37 ***follows: 79-3321. It shall be unlawful for any person:***

38 ***(a) Except as otherwise specifically provided by this act, to possess,***
39 ***sell, transport, import, distribute, wholesale or manufacture more than***
40 ***1,000 cigarettes without the required tax indicia being affixed as herein***
41 ***provided.***

42 ***(b) To mutilate or attach to any individual package of cigarettes any***
43 ***stamp that has in any manner been mutilated or that has been***

1 *heretofore attached to a different individual package of cigarettes or to*
2 *have in possession any stamps so mutilated.*

3 *(c) To prevent the director or any officer or agent authorized by law,*
4 *to make a full inspection for the purpose of this act, of any place of*
5 *business and all premises connected thereto where cigarettes are or may*
6 *be manufactured, sold, distributed, or given away.*

7 *(d) To use any artful device or deceptive practice to conceal any*
8 *violation of this act or to mislead the director or officer or agent*
9 *authorized by law in the enforcement of this act.*

10 *(e) Who is a dealer to fail to produce on demand of the director or*
11 *any officer or agent authorized by law any records or invoices required*
12 *to be kept by such person.*

13 *(f) Knowingly to make, use, or present to the director or agent*
14 *thereof any falsified invoice or falsely state the nature or quantity of the*
15 *goods invoiced.*

16 *(g) Who is a dealer to fail or refuse to keep and preserve for the*
17 *time and in the manner required by this act all the records required by*
18 *this act to be kept and preserved.*

19 *(h) To wholesale cigarettes to any person, other than a*
20 *manufacturer's salesperson, retail dealer or wholesaler who is:*

21 *(1) Duly licensed by the state where such manufacturer's*
22 *salesperson, retail dealer or wholesaler is located; or*

23 *(2) exempt from state licensing under applicable state or federal*
24 *laws or court decisions including any such person operating as a retail*
25 *dealer upon land allotted to or held in trust for an Indian tribe*
26 *recognized by the United States bureau of Indian affairs.*

27 *(i) To have in possession any evidence of tax indicia provided for*
28 *herein not purchased from the director.*

29 *(j) To fail or refuse to permit the director or any officer or agent*
30 *authorized by law to inspect a carrier transporting cigarettes.*

31 *(k) To vend small cigars, or any products so wrapped as to be*
32 *confused with cigarettes, from a machine vending cigarettes, nor shall a*
33 *vending machine be so built to vend cigars or products that may be*
34 *confused with cigarettes, be attached to a cigarette vending machine.*

35 *(l) To sell, furnish or distribute cigarettes, electronic cigarettes or*
36 *tobacco products to any person under 21 years of age.*

37 *(m) Who is under 21 years of age to purchase or attempt to*
38 *purchase cigarettes, electronic cigarettes or tobacco products.*

39 *(n) Who is under 21 years of age to possess or attempt to possess*
40 *cigarettes, electronic cigarettes or tobacco products.*

41 *(o) To sell cigarettes to a retailer or at retail that do not bear Kansas*
42 *tax indicia or upon which the Kansas cigarette tax has not been paid.*

43 *(p) To sell cigarettes without having a license for such sale as*

1 *provided herein.*

2 *(g) To sell a vending machine without having a vending machine*
3 *distributor's license.*

4 *(r) Who is a retail dealer to fail to post and maintain in a*
5 *conspicuous place in the dealer's establishment the following notice:*
6 *"By law, cigarettes, electronic cigarettes and tobacco products may be*
7 *sold only to persons 21 years of age and older."*

8 *(s) To distribute samples within 500 feet of any school when such*
9 *facility is being used primarily by persons under 21 years of age unless*
10 *the sampling is:*

11 *(1) In an area to which persons under 21 years of age are denied*
12 *access;*

13 *(2) in or at a retail location where cigarettes and tobacco products*
14 *are the primary commodity offered for sale at retail; or*

15 *(3) at or adjacent to an outdoor production, repair or construction*
16 *site or facility.*

17 *(t) To sell cigarettes, electronic cigarettes or tobacco products by*
18 *means of a vending machine, including vending machines that sell*
19 *packaged, single cigarettes, in any establishment, or portion of an*
20 *establishment, which is open to minors, except that this subsection shall*
21 *not apply to:*

22 *(1) The installation and use by the proprietor of the establishment,*
23 *or by the proprietor's agents or employees, of vending machines behind*
24 *a counter, or in some place in such establishment, or portion thereof, to*
25 *which minors are prohibited by law from having access; or*

26 *(2) the installation and use of a vending machine in a commercial*
27 *building or industrial plant, or portions thereof, where the public is not*
28 *customarily admitted and where machines are intended for the sole use*
29 *of adult employees employed in the building or plant.*

30 *(u) To sell cigarettes, electronic cigarettes or tobacco products by*
31 *means of a self-service display in any establishment, except that the*
32 *provisions of this subsection shall not apply to:*

33 *(1) A vending machine that is permitted under subsection (t);*

34 *(2) a self-service display that is located in a tobacco specialty store;*
35 *or*

36 *(3) a self-service display located in a facility where the retailer*
37 *ensures that no person younger than 21 years of age is present or*
38 *permitted to enter at any time.*

39 *(v) To sell or distribute in this state; to acquire, hold, own, possess*
40 *or transport for sale or distribution in this state; or to import or cause to*
41 *be imported, into this state for sale or distribution in this state:*

42 *(1) Any cigarettes the package of which: (A) Bears any statement,*
43 *label, stamp, sticker or notice indicating that the manufacturer did not*

1 *intend the cigarettes to be sold, distributed or used in the United States,*
2 *including, but not limited to, labels stating "For Export Only," "U.S.*
3 *Tax-Exempt," "For Use Outside U.S." or similar wording; or (B) does*
4 *not comply with: (i) All requirements imposed by or pursuant to federal*
5 *law regarding warnings and other information on packages of cigarettes*
6 *manufactured, packaged or imported for sale, distribution or use in the*
7 *United States, including but not limited to the precise warning labels*
8 *specified in the federal cigarette labeling and advertising act, 15 U.S.C.*
9 *§ 1333; and (ii) all federal trademark and copyright laws;*

10 *(2) any cigarettes imported into the United States in violation of 26*
11 *U.S.C. § 5754 or any other federal law, or federal regulations*
12 *implementing such laws;*

13 *(3) any cigarettes that such person otherwise knows or has reason*
14 *to know the manufacturer did not intend to be sold, distributed or used*
15 *in the United States; or*

16 *(4) any cigarettes for which there has not been submitted to the*
17 *secretary of the U.S. department of health and human services the list or*
18 *lists of the ingredients added to tobacco in the manufacture of such*
19 *cigarettes required by the federal cigarette labeling and advertising act,*
20 *15 U.S.C. § 1335a.*

21 *(w) To alter the package of any cigarettes, prior to sale or*
22 *distribution to the ultimate consumer, so as to remove, conceal or*
23 *obscure:*

24 *(1) Any statement, label, stamp, sticker or notice described in*
25 *subsection (v); or*

26 *(2) any health warning that is not specified in, or does not conform*
27 *with, the requirements of, the federal cigarette labeling and advertising*
28 *act, 15 U.S.C. § 1333.*

29 *(x) To affix any stamp required pursuant to K.S.A. 79-3311, and*
30 *amendments thereto, to the package of any cigarettes described in*
31 *subsection (v) or altered in violation of subsection (w).*

32 *(y) To possess, sell, transport, import, distribute, wholesale or*
33 *manufacture cigarettes, smokeless tobacco or roll-your-own tobacco in*
34 *violation of K.S.A. 50-6a01 et seq., and amendments thereto.*

35 *(z) To sell cigarettes, smokeless tobacco or roll-your-own tobacco in*
36 *any manner that is not a direct, face-to-face exchange between the*
37 *retailer and the consumer, except: (1) Mail-order sales, which shall not*
38 *include mail-order redemption coupons and distribution of free samples*
39 *through the mail; (2) vending machines as provided in subsection (t);*
40 *and (3) self-service displays as provided in subsection (u).*

41 *(aa) To market, advertise, sell or cause to be sold an electronic*
42 *cigarette if such electronic cigarette's container, packaging or advertising:*

43 *(1) Depicts a cartoon-like fictional character that mimics a character*

- 1 *primarily aimed at entertaining minors;*
2 (2) *imitates or mimics trademarks or trade dress of products that are*
3 *or have been primarily marketed to minors;*
4 (3) *includes a symbol that is primarily used to market products to*
5 *minors;*
6 (4) *includes an image of a celebrity; or*
7 (5) *is designed to disguise the fact that such product is an electronic*
8 *cigarette.*

9 (bb) *To market, advertise, sell or cause to be sold an electronic*
10 *cigarette that has entertainment features, such as the ability to play*
11 *games, play music or other audio, display photos or video or any similar*
12 *electronic entertainment features.*

13 ~~Sec. 4.~~ 5. K.S.A. 79-3333 is hereby amended to read as follows: 79-
14 3333. (a) Each person engaged in the business of selling cigarettes,
15 *electronic cigarettes*, smokeless tobacco or roll-your-own tobacco to
16 persons who reside in Kansas shall obtain a license as provided by the
17 Kansas cigarette and tobacco products act.

18 (b) All cigarettes sold to persons who reside in Kansas shall have a
19 valid Kansas cigarette tax stamp affixed to each package.

20 (c) All retail dealers, whether located in or outside the state of
21 Kansas, shall have a registration certificate as provided in K.S.A. 79-3608,
22 and amendments thereto, and be subject to the provisions of the Kansas
23 retailers' sales tax act. Each licensee or other person selling cigarettes,
24 *electronic cigarettes*, smokeless tobacco or roll-your-own tobacco over the
25 internet, telephone or other mail order transaction shall file all sales tax
26 returns and remit taxes owed pursuant to K.S.A. 79-3607, and
27 amendments thereto.

28 (d) All sales transactions over the internet, telephone or other mail
29 order transaction shall not be completed, unless, before each delivery of
30 cigarettes, *electronic cigarettes*, smokeless tobacco or roll-your-own
31 tobacco is made, whether through the mail, through a transportation
32 company or any other delivery system, the seller has obtained from the
33 purchaser a certification that includes:

34 (1) A reliable confirmation that the purchaser is at least the legal
35 minimum age to purchase cigarettes, *electronic cigarettes*, smokeless
36 tobacco or roll-your-own tobacco; and

37 (2) *a written statement signed by the purchaser that includes the*
38 *following:*

39 (A) The cigarettes, *electronic cigarettes* or tobacco products
40 purchased are not intended for consumption by an individual who is
41 younger than the legal minimum age to purchase cigarettes, *electronic*
42 *cigarettes*, smokeless tobacco or roll-your-own tobacco; ~~and a written~~
43 ~~statement signed by the purchaser that certifies~~

1 (B) *the address provided is the purchaser's address* ~~and that;~~

2 (C) the purchaser is at least the minimum legal age to purchase
3 cigarettes, *electronic cigarettes*, smokeless tobacco or roll-your-own
4 tobacco. ~~Such statement shall also confirm: (1) That;~~

5 (D) the purchaser understands that signing another person's name to
6 such certification is illegal; ~~(2) that~~

7 (E) the sale of cigarettes, *electronic cigarettes*, smokeless tobacco or
8 roll-your-own tobacco to individuals under the legal minimum purchase
9 age is illegal; ~~and (3) that~~

10 (F) the purchase of cigarettes, *electronic cigarettes*, smokeless
11 tobacco or roll-your-own tobacco by individuals under the legal minimum
12 purchase age is illegal under the laws of Kansas.

13 (e) The retail cigarette dealer shall verify the information contained in
14 the certification provided by the purchaser against a commercially
15 available database of governmental records, or obtain a photocopy or other
16 image of the valid, government-issued identification stating the date of
17 birth or age of the purchaser.

18 (f) All invoices, bills of lading, sales receipts and any other document
19 related to the sale of cigarettes, *electronic cigarettes*, smokeless tobacco or
20 roll-your-own tobacco through the internet or other mail order transaction
21 shall contain the current, valid retailer Kansas cigarette, *electronic*
22 *cigarette*, smokeless tobacco or roll-your-own tobacco dealer license
23 number, Kansas sales tax registration number, business name and address
24 of the seller.

25 (g) All packages of cigarettes shipped from a cigarette dealer to
26 purchasers who reside in Kansas shall clearly print the package with the
27 word "CIGARETTES" on all sides of the package. In addition, such
28 package shall contain an externally visible and easily legible notice located
29 on the same side of the package as the address to which the package is
30 delivered as follows:

31 "IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM
32 A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU
33 RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL
34 LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX
35 COLLECTION AGENCY, INCLUDING YOUR NAME AND
36 ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL
37 APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

38 (h) (1) Each retail dealer that sells cigarettes to Kansas consumers
39 without indicia of Kansas tax shall file an annual statement for each
40 consumer to the department of revenue on such forms as are provided or
41 approved by the department to the director for all Kansas consumers by
42 March 1 of each year showing such information as the Kansas department
43 of revenue shall require by rules and regulations, including the:

- 1 (A) Name and address of such Kansas consumer;
2 (B) the date of purchase; and
3 (C) the total number of packs of cigarettes purchased by such Kansas
4 consumer made from the retail dealer in the previous calendar year.

5 (2) The director may require any retail dealer that sells cigarettes to
6 Kansas consumers without indicia of Kansas tax of more than \$100,000 in
7 a calendar year to file the annual statement described in paragraph (1) by
8 electronic format, including magnetic media or another machine-readable
9 form for that year.

10 (3) Failure to file the annual statement required in paragraph (1) shall
11 subject the retailer dealer to a penalty of \$10 for each consumer that
12 should have been included in such annual statement, unless the retailer
13 shows reasonable cause for such failure.

14 (i) Except as otherwise provided by this act, a violation of subsection
15 (a), (d), (e)~~–~~, (h) *or* (l) is a:

16 (1) Class A misdemeanor for a first violation, and the offender shall
17 be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;

18 (2) severity level 6, nonperson felony for a second violation, and the
19 offender shall be fined not less than \$50,000 nor more than \$100,000 upon
20 a second conviction; and

21 (3) severity level 6, nonperson felony for a third and all subsequent
22 violations, and the offender shall be fined \$100,000 upon a third and all
23 subsequent convictions.

24 (j) Each separate violation of any provision of this section, other than
25 the provisions of subsection (a), (d), (e)~~–~~, (h) *or* (l) shall be a class B
26 misdemeanor, and the offender shall be fined not less than \$500 nor more
27 than \$1,000.

28 (k) The secretary of revenue or the secretary's authorized agent may
29 refer such evidence as may be available concerning violations of this act or
30 any rules and regulations or order hereunder to the attorney general or the
31 proper county or district attorney, who may, in the prosecutor's discretion,
32 with or without such a reference, institute the appropriate criminal
33 proceedings under this act. Upon receipt of such reference, the attorney
34 general or the county attorney or district attorney may request that a duly
35 employed attorney of the department of revenue prosecute or assist in the
36 prosecution of such violation or violations on behalf of the state. Upon
37 approval of the secretary or the secretary's authorized agent, such
38 employee shall be appointed as a special prosecutor for the attorney
39 general or the county attorney or district attorney to serve without
40 compensation from the attorney general or the county attorney or district
41 attorney. Such special prosecutor shall have all the powers and duties
42 prescribed by law for assistant attorneys general or assistant county or
43 district attorneys and such other powers and duties as are lawfully

1 delegated to such special prosecutor by the attorney general or the county
 2 attorney or district attorney. If an attorney employed by the secretary or
 3 secretary's authorized agent acts as a special prosecutor, the secretary may
 4 pay extradition and witness expenses associated with the case.

5 (1) *(1) All wholesale dealers, distributors and retailers shall only*
 6 *purchase cigarettes, electronic cigarettes, smokeless tobacco and roll-*
 7 *your-own tobacco from a manufacturer, electronic cigarette manufacturer,*
 8 *wholesale dealer or distributor that holds a valid license issued pursuant*
 9 *to this act and shall verify that the seller holds such valid license prior to*
 10 *completing the transaction.*

11 (2) *All manufacturers, electronic cigarette manufacturers, wholesale*
 12 *dealers and distributors shall only sell cigarettes, electronic cigarettes,*
 13 *smokeless tobacco and roll-your-own tobacco to a wholesale dealer,*
 14 *distributor or retailer that holds a valid license issued pursuant to this act*
 15 *and shall verify that the purchaser holds such valid license prior to*
 16 *completing the transaction.*

17 (m) The provisions of this section shall be a part of and supplemental
 18 to the Kansas cigarette and tobacco products act.

19 Sec. ~~5~~ 6. K.S.A. 79-3334 is hereby amended to read as follows: 79-
 20 3334. (a) ~~The Kansas~~ department of revenue shall publish a list of ~~active~~
 21 ~~cigarette and tobacco licensees~~ *persons that hold an active license issued*
 22 *pursuant to this act and shall update such list monthly.*

23 (b) ~~The list of active cigarette and tobacco licensees published as~~
 24 ~~provided in~~ under subsection (a) shall contain the following information:

- 25 (1) *The name of the county ~~name~~, where such licensee is located;*
- 26 (2) *the name of the owner, of such licensee;*
- 27 (3) *the name and address of the licensee business ~~name, address~~;*
- 28 (4) *the license type; and*
- 29 (5) *the license number.*

30 (c) *The department of revenue shall publish a list of those persons*
 31 *holding a license issued pursuant to this act but whose license is*
 32 *suspended or revoked. Such list shall include the date such suspension or*
 33 *revocation commenced and the date of anticipated reinstatement, if any.*

34 (d) The provisions of this section shall be a part of and supplemental
 35 to the Kansas cigarette and tobacco products act.

36 Sec. ~~6~~ 7. K.S.A. 79-3373 is hereby amended to read as follows: 79-
 37 3373. (a) No person shall engage in the business of selling or dealing in
 38 tobacco products *or electronic cigarettes* as a distributor in this state
 39 without first having received a license from the director. Every application
 40 for such license shall be made on a form prescribed by the director and
 41 shall state:

- 42 (1) The name and address of the applicant;
- 43 (2) if the applicant is a firm, partnership or association, the name and

1 address of each ~~of its members~~ *member thereof*;

2 (3) if the applicant is a corporation, the name and address of each ~~of~~
3 ~~its officers~~ *corporate officer*;

4 (4) the address of ~~its~~ *the applicant's* principal place of business;

5 (5) the place where the business to be licensed is to be conducted; and

6 (6) such other information as the director may require for the purpose
7 of the administration of this act.

8 (b) A person outside this state who ships or transports tobacco
9 products *or electronic cigarettes* to retailers in this state, to be sold by
10 those retailers, may make application for license as a distributor, be
11 granted such a license by the director and thereafter be subject to all the
12 provisions of this act and entitled to act as a licensed distributor if the
13 person files with the application proof that the person has appointed the
14 secretary of state as the person's agent for service of process relating to any
15 matter or issue arising under this act.

16 ~~Sec. 7.~~ **8.** K.S.A. 79-3301, 79-3302, 79-3333, 79-3334 and 79-3373
17 *and K.S.A. 2025 Supp. 79-3321* are hereby repealed.

18 ~~Sec. 8.~~ **9.** This act shall take effect and be in force from and after its
19 publication in the statute book.