

HOUSE BILL No. 2672

By Committee on Health and Human Services

2-13

1 AN ACT concerning taxation upon cigarettes and tobacco products;
2 relating to rates; amending K.S.A. 79-3371 and 79-3378 and K.S.A.
3 2013 Supp. 79-3310, 79-3310c, 79-3311 and 79-3312 and repealing the
4 existing sections.
5

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

7 Section 1. K.S.A. 2013 Supp. 79-3310 is hereby amended to read as
8 follows: 79-3310. (a) There is imposed a tax upon all cigarettes sold,
9 distributed or given away within the state of Kansas. ~~On and after July 1,~~
10 ~~2002, and before January 1, 2003, the rate of such tax shall be \$.70 on~~
11 ~~each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes,~~
12 ~~as the case requires. On and after January 1, 2003, and before January 1,~~
13 ~~2015, the rate of such tax shall be \$.79 on each 20 cigarettes or fractional~~
14 ~~part thereof or \$.99 on each 25 cigarettes, as the case requires. On and~~
15 ~~after January 1, 2015, the rate of such tax shall be \$2.29 on each 20~~
16 ~~cigarettes or fractional part thereof or \$2.8625 on each 25 cigarettes, as~~
17 ~~the case requires. Such tax shall be collected and paid to the director as~~
18 ~~provided in this act. Such tax shall be paid only once and shall be paid by~~
19 ~~the wholesale dealer first receiving the cigarettes as herein provided.~~

20 (b) The taxes imposed by this act are hereby levied upon all sales of
21 cigarettes made to any department, institution or agency of the state of
22 Kansas, and to the political subdivisions thereof and their departments,
23 institutions and agencies.

24 Sec. 2. K.S.A. 2013 Supp. 79-3310c is hereby amended to read as
25 follows: 79-3310c. ~~(1) On or before July 30, 2002, January 31, 2015, each~~
26 ~~wholesale dealer, retail dealer and vending machine operator shall file a~~
27 ~~report with the director in such form as the director may prescribe showing~~
28 ~~cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on~~
29 ~~July 1, 2002 January 1, 2015. A tax of \$.46 \$1.50 on each 20 cigarettes or~~
30 ~~fractional part thereof or \$.575 \$1.8725 on each 25 cigarettes, as the case~~
31 ~~requires and \$.46 or \$.575 \$1.50 or \$1.8725, as the case requires upon all~~
32 ~~tax stamps and all meter imprints purchased from the director and not~~
33 ~~affixed to cigarettes prior to July 1, 2002 January 1, 2015, is hereby~~
34 ~~imposed and shall be due and payable in equal installments on or before~~
35 ~~July 30, 2002 January 31, 2015, on or before September 30, 2002 April~~
36 ~~30, 2015, and on or before December 30, 2002 July 30, 2015. The tax~~

1 imposed upon such cigarettes, tax stamps and meter imprints shall be
2 imposed only once under this act. The director shall remit all moneys
3 collected pursuant to this section to the state treasurer who shall credit the
4 entire amount thereof to the state general fund.

5 ~~(2) On or before January 30, 2003, each wholesale dealer, retail~~
6 ~~dealer and vending machine operator shall file a report with the director in~~
7 ~~such form as the director may prescribe showing cigarettes, cigarette~~
8 ~~stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A tax~~
9 ~~of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on each 25~~
10 ~~cigarettes, as the case requires and \$.09 or \$.115, as the case requires upon~~
11 ~~all tax stamps and all meter imprints purchased from the director and not~~
12 ~~affixed to cigarettes prior to January 1, 2003, is hereby imposed and shall~~
13 ~~be due and payable in equal installments on or before January 30, 2003, on~~
14 ~~or before March 30, 2003, and on or before June 30, 2003. The tax~~
15 ~~imposed upon such cigarettes, tax stamps and meter imprints shall be~~
16 ~~imposed only once under this act. The director shall remit all moneys~~
17 ~~collected pursuant to this section to the state treasurer who shall credit the~~
18 ~~entire amount thereof to the state general fund.~~

19 Sec. 3. K.S.A. 2013 Supp. 79-3311 is hereby amended to read as
20 follows: 79-3311. The director shall design and designate indicia of tax
21 payment to be affixed to each package of cigarettes as provided by this act.
22 The director shall sell water applied stamps only to licensed wholesale
23 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the
24 heat process shall be sold only in amounts of 30,000 or multiples thereof,
25 except that such stamps which are suitable for packages containing 25
26 cigarettes each shall be sold in amounts prescribed by the director. Meter
27 imprints shall be sold only in amounts of 10,000 or multiples thereof.
28 Water applied stamps in amounts of 10,000 or multiples thereof and
29 stamps applied by the heat process and meter imprints shall be supplied to
30 wholesale dealers at a discount of ~~90% on and after July 1, 2002, and~~
31 ~~before January 1, 2003, and .80% .0027% on and after January 1, 2015,~~
32 thereafter from the face value thereof, and shall be deducted at the time of
33 purchase or from the remittance therefor as hereinafter provided. Any
34 wholesale cigarette dealer who shall file with the director a bond, of
35 acceptable form, payable to the state of Kansas with a corporate surety
36 authorized to do business in Kansas, shall be permitted to purchase stamps,
37 and remit therefor to the director within 30 days after each such purchase,
38 up to a maximum outstanding at any one time of 85% of the amount of the
39 bond. Failure on the part of any wholesale dealer to remit as herein
40 specified shall be cause for forfeiture of such dealer's bond. All revenue
41 received from the sale of such stamps or meter imprints shall be remitted
42 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
43 and amendments thereto. Upon receipt of each such remittance, the state

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

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

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

41 Sec. 4. K.S.A. 2013 Supp. 79-3312 is hereby amended to read as
42 follows: 79-3312. The director shall redeem any unused stamps or meter
43 imprints that any wholesale dealer presents for redemption within six

1 months after the purchase thereof, at the face value less ~~90% on and after~~
2 ~~July 1, 2002, and before January 1, 2003, and 80% .0027% on and after~~
3 ~~January 1, 2015, and~~ thereafter thereof if such stamps or meter imprints
4 have been purchased from the director. The director shall prepare a
5 voucher showing the net amount of such refund due, and the director of
6 accounts and reports shall draw a warrant on the state treasurer for the
7 same. Wholesale dealers shall be entitled to a refund of the tax paid on
8 cigarettes which have become unfit for sale upon proof thereof less ~~90%~~
9 ~~on and after July 1, 2002, and before January 1, 2003, and 80% .0027%~~
10 ~~on and after January 1, 2015,~~ thereafter of such tax.

11 Sec. 5. K.S.A. 79-3371 is hereby amended to read as follows: 79-
12 3371. A tax is hereby imposed upon the privilege of selling or dealing in
13 tobacco products in this state by any person engaged in business as a
14 distributor thereof, at the rate of ~~ten percent (10%)~~ 78% of the wholesale
15 sales price of such tobacco products. Such tax shall be imposed at the time
16 the distributor: (a) Brings or causes to be brought into this state from
17 without the state tobacco products for sale; (b) makes, manufactures, or
18 fabricates tobacco products in this state for sale in this state; or (c) ships or
19 transports tobacco products to retailers in this state to be sold by those
20 retailers.

21 New Sec. 6. On or before January 31, 2015, each distributor having a
22 place of business in this state shall file a report with the director in such
23 form as the director may prescribe, showing the tobacco products on hand
24 at 12:01a.m. on January 1, 2015. A tax at a rate equal to 68% of the
25 wholesale sales price of such tobacco products is hereby imposed upon
26 such tobacco products and shall be due and payable on or before January
27 31, 2015. The tax upon such tobacco products shall be imposed only once
28 under this act. The director shall remit all moneys collected pursuant to
29 this section to the state treasurer who shall credit the entire amount thereof
30 to the state general fund.

31 Sec. 7. K.S.A. 79-3378 is hereby amended to read as follows: 79-
32 3378. On or before the ~~twentieth~~ 20th day of each calendar month every
33 distributor with a place of business in this state shall file a return with the
34 director showing the quantity and wholesale sales price of each tobacco
35 product: (1) Brought, or caused to be brought, into this state for sale; and
36 (2) made, manufactured, or fabricated in this state for sale in this state
37 during the preceding calendar month. Every licensed distributor outside
38 this state shall in like manner file a return showing the quantity and
39 wholesale sales price of each tobacco product shipped or transported to
40 retailers in this state to be sold by those retailers, during the preceding
41 calendar month. Returns shall be made upon forms furnished and
42 prescribed by the director. Each return shall be accompanied by a
43 remittance for the full tax liability shown therein, less ~~four percent (4%)~~

1 0.5% of such liability as compensation to reimburse the distributor for ~~his~~
2 ~~or her~~ expenses incurred in the administration of this act. As soon as
3 practicable after any return is filed, the director shall examine the return. If
4 the director finds that, ~~in his or her judgment~~, the return is incorrect and
5 any amount of tax is due from the distributor and unpaid, ~~he or she~~ *the*
6 *director* shall notify the distributor of the deficiency. If a deficiency
7 disclosed by the director's examination cannot be allocated by ~~him~~ *the*
8 *director* to a particular month or months, ~~he or she~~ *the director* may
9 nevertheless notify the distributor that a deficiency exists and state the
10 amount of tax due. Such notice shall be given to the distributor by
11 registered or certified mail.

12 Sec. 8. K.S.A. 79-3371 and 79-3378 and K.S.A. 2013 Supp. 79-3310,
13 79-3310c, 79-3311 and 79-3312 are hereby repealed.

14 Sec. 9. This act shall take effect and be in force from and after its
15 publication in the statute book.