

HOUSE BILL No. 2231

By Committee on Taxation

1-31

1 AN ACT concerning tobacco; relating to rates of taxation, cigarettes and
2 tobacco products; creating the cigarette and tobacco cessation fund;
3 amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2016 Supp. 79-
4 3310, 79-3310c, 79-3311, 79-3312 and 79-3387 and repealing the
5 existing sections.
6

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

8 New Section 1. There is hereby established in the state treasury the
9 cigarette and tobacco cessation fund which shall be administered by the
10 secretary of the department of health and environment. All expenditures
11 from the cigarette and tobacco cessation fund shall be for promoting the
12 cessation of cigarette and tobacco usage. All expenditures from the
13 cigarette and tobacco cessation fund shall be made in accordance with
14 appropriation acts upon warrants of the director of accounts and reports
15 issued pursuant to vouchers approved by the secretary or the secretary's
16 designee.

17 New Sec. 2. On or before July 31, 2017, each distributor having a
18 place of business in this state shall file a report with the director in such
19 form as the director may prescribe, showing the tobacco products on hand
20 at 12:01 a.m. on July 1, 2017. A tax at a rate equal to 55% of the wholesale
21 price of such tobacco products is hereby imposed upon such tobacco
22 products and shall be due and payable on or before July 31, 2017. The tax
23 upon such tobacco products shall be imposed only once under this act. The
24 director shall remit all moneys collected pursuant to this section to the
25 state treasurer who shall credit the entire amount thereof to the state
26 general fund.

27 Sec. 3. K.S.A. 2016 Supp. 79-3310 is hereby amended to read as
28 follows: 79-3310. There is imposed a tax upon all cigarettes sold,
29 distributed or given away within the state of Kansas. On and after July 1,
30 2015, *and before July 1, 2017*, the rate of such tax shall be \$1.29 on each
31 20 cigarettes or fractional part thereof or \$1.61 on each 25 cigarettes, as
32 the case requires. *On and after July 1, 2017, the rate of such tax shall be*
33 *\$2.79 on each 20 cigarettes or fractional part thereof or \$3.49 on each 25*
34 *cigarettes, as the case requires.* Such tax shall be collected and paid to the
35 director as provided in this act. Such tax shall be paid only once and shall
36 be paid by the wholesale dealer first receiving the cigarettes as herein

1 provided.

2 The taxes imposed by this act are hereby levied upon all sales of
3 cigarettes made to any department, institution or agency of the state of
4 Kansas, and to the political subdivisions thereof and their departments,
5 institutions and agencies.

6 Sec. 4. K.S.A. 2016 Supp. 79-3310c is hereby amended to read as
7 follows: 79-3310c. On or before July 31, ~~2015~~ 2017, each wholesale
8 dealer, retail dealer and vending machine operator shall file a report with
9 the director in such form as the director may prescribe showing cigarettes,
10 cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2015~~
11 2017. A tax of ~~\$.50~~ \$1.50 on each 20 cigarettes or fractional part thereof or
12 ~~\$.62~~ \$1.88 on each 25 cigarettes, as the case requires and ~~\$.50 or \$.62~~
13 ~~\$1.50 or \$1.88~~, as the case requires upon all tax stamps and all meter
14 imprints purchased from the director and not affixed to cigarettes prior to
15 July 1, ~~2015~~ 2017, is hereby imposed and shall be due and payable on or
16 before October 31, ~~2015~~ 2017. The tax imposed upon such cigarettes, tax
17 stamps and meter imprints shall be imposed only once under this act. The
18 director shall remit all moneys collected pursuant to this section to the
19 state treasurer who shall credit the entire amount thereof to the state
20 general fund.

21 Sec. 5. K.S.A. 2016 Supp. 79-3311 is hereby amended to read as
22 follows: 79-3311. The director shall design and designate indicia of tax
23 payment to be affixed to each package of cigarettes as provided by this act.
24 The director shall sell water applied stamps only to licensed wholesale
25 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the
26 heat process shall be sold only in amounts of 30,000 or multiples thereof,
27 except that such stamps which are suitable for packages containing 25
28 cigarettes each shall be sold in amounts prescribed by the director. Meter
29 imprints shall be sold only in amounts of 10,000 or multiples thereof.
30 Water applied stamps in amounts of 10,000 or multiples thereof and
31 stamps applied by the heat process and meter imprints shall be supplied to
32 wholesale dealers at a discount of ~~0.55%~~ 0.25% on and after July 1, ~~2015~~
33 2017, and thereafter, from the face value thereof, and shall be deducted at
34 the time of purchase or from the remittance therefor as hereinafter
35 provided. Any wholesale cigarette dealer who shall file with the director a
36 bond, of acceptable form, payable to the state of Kansas with a corporate
37 surety authorized to do business in Kansas, shall be permitted to purchase
38 stamps, and remit therefor to the director within 30 days after each such
39 purchase, up to a maximum outstanding at any one time of 85% of the
40 amount of the bond. Failure on the part of any wholesale dealer to remit as
41 herein specified shall be cause for forfeiture of such dealer's bond. All
42 revenue received from the sale of such stamps or meter imprints shall be
43 remitted to the state treasurer in accordance with the provisions of K.S.A.

1 75-4215, and amendments thereto. Upon receipt of each such remittance,
2 the state treasurer shall deposit the entire amount in the state treasury. The
3 state treasurer shall first credit such amount as the director shall order to
4 the cigarette tax refund fund and shall credit the remaining balance to the
5 state general fund. A refund fund designated the cigarette tax refund fund
6 not to exceed \$10,000 at any time shall be set apart and maintained by the
7 director from taxes collected under this act and held by the state treasurer
8 for prompt payment of all refunds authorized by this act. Such cigarette tax
9 refund fund shall be in such amount as the director shall determine is
10 necessary to meet current refunding requirements under this act.

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

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

42 Sec. 6. K.S.A. 2016 Supp. 79-3312 is hereby amended to read as
43 follows: 79-3312. The director shall redeem any unused stamps or meter

1 imprints that any wholesale dealer presents for redemption within six
2 months after the purchase thereof, at the face value less ~~0.55%~~ 0.25%
3 thereof if such stamps or meter imprints have been purchased from the
4 director. The director shall prepare a voucher showing the net amount of
5 such refund due, and the director of accounts and reports shall draw a
6 warrant on the state treasurer for the same. Wholesale dealers shall be
7 entitled to a refund of the tax paid on cigarettes which have become unfit
8 for sale upon proof thereof less ~~0.55%~~ 0.25% of such tax.

9 Sec. 7. K.S.A. 79-3371 is hereby amended to read as follows: 79-
10 3371. A tax is hereby imposed upon the privilege of selling or dealing in
11 tobacco products in this state by any person engaged in business as a
12 distributor thereof, at the rate of ~~ten percent (10%)~~ 65% of the wholesale
13 sales price of such tobacco products. Such tax shall be imposed at the time
14 the distributor: (a) Brings or causes to be brought into this state from
15 without the state tobacco products for sale; (b) makes, manufactures, or
16 fabricates tobacco products in this state for sale in this state; or (c) ships or
17 transports tobacco products to retailers in this state to be sold by those
18 retailers.

19 Sec. 8. K.S.A. 79-3378 is hereby amended to read as follows: 79-
20 3378. On or before the ~~twentieth~~ 20th day of each calendar month every
21 distributor with a place of business in this state shall file a return with the
22 director showing the quantity and wholesale sales price of each tobacco
23 product: (1) Brought, or caused to be brought, into this state for sale; and
24 (2) made, manufactured, or fabricated in this state for sale in this state
25 during the preceding calendar month. Every licensed distributor outside
26 this state shall in like manner file a return showing the quantity and
27 wholesale sales price of each tobacco product shipped or transported to
28 retailers in this state to be sold by those retailers, during the preceding
29 calendar month. Returns shall be made upon forms furnished and
30 prescribed by the director. Each return shall be accompanied by a
31 remittance for the full tax liability shown therein, less ~~four percent (4%)~~
32 0.6% of such liability as compensation to reimburse the distributor for ~~his~~
33 ~~or her~~ *the distributor's* expenses incurred in the administration of this act.
34 As soon as practicable after any return is filed, the director shall examine
35 the return. If the director finds that, in ~~his or her~~ *the director's* judgment,
36 the return is incorrect and any amount of tax is due from the distributor
37 and unpaid, ~~he or she~~ *the director* shall notify the distributor of the
38 deficiency. If a deficiency disclosed by the director's examination cannot
39 be allocated by ~~him~~ *the director* to a particular month or months, ~~he or she~~
40 *the director* may nevertheless notify the distributor that a deficiency exists
41 and state the amount of tax due. Such notice shall be given to the
42 distributor by registered or certified mail.

43 Sec. 9. K.S.A. 2016 Supp. 79-3387 is hereby amended to read as

1 follows: 79-3387. (a) *Except as otherwise provided*, all revenue collected
2 or received by the director from taxes imposed by this act shall be remitted
3 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
4 and amendments thereto. Upon receipt of each such remittance, the state
5 treasurer shall deposit the entire amount in the state treasury to the credit
6 of the state general fund.

7 (b) All moneys received from license fees imposed by this act shall
8 be collected by the director and shall be remitted to the state treasurer in
9 accordance with the provisions of K.S.A. 75-4215, and amendments
10 thereto. Upon receipt of each such remittance, the state treasurer shall
11 deposit the entire amount in the state treasury to the credit of the cigarette
12 and tobacco products regulation fund created by K.S.A. 79-3391, and
13 amendments thereto.

14 (c) *On and after July 1, 2017, and each July 1, thereafter; the state*
15 *treasurer shall deposit and credit the first \$5,000,000 of revenue collected*
16 *or received by the director from taxes imposed by this act to the cigarette*
17 *and tobacco cessation fund established by section 1, and amendments*
18 *thereto. The state treasurer shall deposit and credit the remaining balance*
19 *to the credit of the state general fund.*

20 Sec. 10. K.S.A. 79-3371 and 79-3378 and K.S.A. 2016 Supp. 79-
21 3310, 79-3310c, 79-3311, 79-3312 and 79-3387 are hereby repealed.

22 Sec. 11. This act shall take effect and be in force from and after its
23 publication in the statute book.