

HOUSE BILL No. 2768

By Committee on Appropriations

3-6

1 AN ACT concerning taxation; relating to taxation of cigarettes, rate of tax,
2 use of proceeds; establishing the medicaid expansion fund; amending
3 K.S.A. 2017 Supp. 79-3310, 79-3310c, 79-3311, 79-3312 and 79-3387
4 and repealing the existing sections.
5

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

7 New Section 1. (a) There is hereby created in the state treasury the
8 medicaid expansion fund. The department of health and environment shall
9 expend moneys in the medicaid expansion fund only for purposes
10 described in subsection (b). All expenditures from the medicaid expansion
11 fund shall be made in accordance with appropriation acts upon warrants of
12 the director of accounts and reports issued pursuant to vouchers approved
13 by the secretary of health and environment or the secretary's designee.

14 (b) (1) Notwithstanding any provisions of K.S.A. 39-709, and
15 amendments thereto, or any other provision of law to the contrary, for
16 purposes of medical assistance eligibility determinations on and after the
17 effective date of this section, medical assistance shall be granted to any
18 adult under 65 years of age who is not pregnant and whose income does
19 not exceed 138% of the federal poverty level, to the extent permitted under
20 the patient protection and affordable care act, public law 111-148, 124 stat.
21 119, and the healthcare and education reconciliation act of 2010, public
22 law 111-152, 124 stat. 1029, as such provisions exist on the effective date
23 of this section. For recipients deemed newly eligible to receive medical
24 assistance pursuant to this subsection, the department of health and
25 environment shall impose no eligibility requirement that exceeds or differs
26 from eligibility requirements imposed by the patient protection and
27 affordable care act, public law 111-148, 124 stat. 119, and the healthcare
28 and education reconciliation act of 2010, public law 111-152, 124 stat.
29 1029, as such provisions exist on the effective date of this section.

30 (2) The secretary of health and environment shall submit to the
31 United States centers for medicare and medicaid services any state
32 medicaid plan amendment, waiver request or other approval request
33 necessary to implement this subsection.

34 Sec. 2. K.S.A. 2017 Supp. 79-3310 is hereby amended to read as
35 follows: 79-3310. There is imposed a tax upon all cigarettes sold,
36 distributed or given away within the state of Kansas. On and after July 1,

1 2015, and before July 1, 2018, the rate of such tax shall be \$1.29 on each
2 20 cigarettes or fractional part thereof or \$1.61 on each 25 cigarettes, as
3 the case requires. *On and after July 1, 2018, the rate of such tax shall be*
4 *\$2.79 on each 20 cigarettes or fractional part thereof or \$3.49 on each 25*
5 *cigarettes, as the case requires.* Such tax shall be collected and paid to the
6 director as provided in this act. Such tax shall be paid only once and shall
7 be paid by the wholesale dealer first receiving the cigarettes as herein
8 provided.

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

13 Sec. 3. K.S.A. 2017 Supp. 79-3310c is hereby amended to read as
14 follows: 79-3310c. On or before July 31, ~~2015~~ 2018, each wholesale
15 dealer, retail dealer and vending machine operator shall file a report with
16 the director in such form as the director may prescribe showing cigarettes,
17 cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2015~~
18 2018. A tax of ~~\$.50~~ \$1.50 on each 20 cigarettes or fractional part thereof or
19 ~~\$.62~~ \$1.88 on each 25 cigarettes, as the case requires and ~~\$.50 or \$.62~~
20 ~~\$1.50 or \$1.88~~, as the case requires upon all tax stamps and all meter
21 imprints purchased from the director and not affixed to cigarettes prior to
22 July 1, ~~2015~~ 2018, is hereby imposed and shall be due and payable on or
23 before October 31, ~~2015~~ 2018. The tax imposed upon such cigarettes, tax
24 stamps and meter imprints shall be imposed only once under this act. The
25 director shall remit all moneys collected pursuant to this section to the
26 state treasurer who shall credit the entire amount thereof to the state
27 general fund.

28 Sec. 4. K.S.A. 2017 Supp. 79-3311 is hereby amended to read as
29 follows: 79-3311. The director shall design and designate indicia of tax
30 payment to be affixed to each package of cigarettes as provided by this act.
31 Stamps applied by the heat process shall be sold only in amounts of 30,000
32 or multiples thereof, except that such stamps which are suitable for
33 packages containing 25 cigarettes each shall be sold in amounts prescribed
34 by the director. Stamps applied by the heat process shall be supplied to
35 wholesale dealers in good standing with the director at the time of
36 purchase at a discount of ~~0.55%~~ 0.25% on and after July 1, ~~2015~~ 2018, and
37 thereafter, from the face value thereof, and shall be deducted at the time of
38 purchase or from the remittance therefor as hereinafter provided. Any
39 wholesale cigarette dealer who shall file with the director a bond, of
40 acceptable form, payable to the state of Kansas with a corporate surety
41 authorized to do business in Kansas, shall be permitted to purchase stamps,
42 and remit therefor to the director within 30 days after each such purchase,
43 up to a maximum outstanding at any one time of 85% of the amount of the

1 bond. Failure on the part of any wholesale dealer to remit as herein
2 specified shall be cause for forfeiture of such dealer's bond. All revenue
3 received from the sale of such stamps shall be remitted to the state
4 treasurer in accordance with the provisions of K.S.A. 75-4215, and
5 amendments thereto. Upon receipt of each such remittance, the state
6 treasurer shall deposit the entire amount in the state treasury. The state
7 treasurer shall first credit such amount as the director shall order to the
8 cigarette tax refund fund and shall credit the remaining balance to the state
9 general fund. A refund fund designated the cigarette tax refund fund not to
10 exceed \$10,000 at any time shall be set apart and maintained by the
11 director from taxes collected under this act and held by the state treasurer
12 for prompt payment of all refunds authorized by this act. Such cigarette tax
13 refund fund shall be in such amount as the director shall determine is
14 necessary to meet current refunding requirements under this act.

15 The wholesale cigarette dealer shall affix to each package of cigarettes
16 stamps required by this act prior to the sale of cigarettes to any person, by
17 such dealer or such dealer's agent or agents, within the state of Kansas.
18 The director is empowered to authorize wholesale dealers to affix revenue
19 tax stamps upon original packages of cigarettes and is charged with the
20 duty of regulating the use of tax stamps to secure payment of the proper
21 taxes. No wholesale dealer shall affix revenue tax stamps to original
22 packages of cigarettes without first having obtained permission from the
23 director to employ this method of affixation. If the director approves the
24 wholesale dealer's application for permission to affix revenue tax stamps
25 to original packages of cigarettes, the director shall require such dealer to
26 file a suitable bond payable to the state of Kansas executed by a corporate
27 surety authorized to do business in Kansas. The director may, to assure the
28 proper collection of taxes imposed by the act, revoke or suspend the
29 privilege of affixing tax stamps upon original packages of cigarettes.

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

34 Sec. 5. K.S.A. 2017 Supp. 79-3312 is hereby amended to read as
35 follows: 79-3312. The director shall redeem any unused stamps that any
36 wholesale dealer presents for redemption within six months after the
37 purchase thereof, at the face value less ~~0.55%~~ 0.25% thereof if such
38 stamps have been purchased from the director and are whole, complete
39 stamps. The director shall prepare a voucher showing the net amount of
40 such refund due, and the director of accounts and reports shall draw a
41 warrant on the state treasurer for the same. Wholesale dealers shall be
42 entitled to a refund of the tax paid on cigarettes which have become unfit
43 for sale upon proof thereof less ~~0.55%~~ 0.25% of such tax.

1 Sec. 6. K.S.A. 2017 Supp. 79-3387 is hereby amended to read as
2 follows: 79-3387. (a) All revenue collected or received by the director
3 from taxes imposed by this act shall be remitted to the state treasurer in
4 accordance with the provisions of K.S.A. 75-4215, and amendments
5 thereto. Upon receipt of each such remittance, the state treasurer shall
6 deposit the entire amount in the state treasury to the credit of the state
7 general fund.

8 (b) All moneys received from license fees, forfeiture proceeds under
9 K.S.A. 79-3324a, and amendments thereto, and fines imposed by this act
10 shall be collected by the director and shall be remitted to the state treasurer
11 in accordance with the provisions of K.S.A. 75-4215, and amendments
12 thereto. Upon receipt of each such remittance, the state treasurer shall
13 deposit the entire amount in the state treasury to the credit of the cigarette
14 and tobacco products regulation fund created by K.S.A. 79-3391, and
15 amendments thereto, and such proceeds shall be used exclusively for
16 cigarette and tobacco products regulation and enforcement, and not for any
17 other purpose.

18 (c) *On and after July 1, 2018, the director shall certify monthly the*
19 *amount of revenue collected or received due to the increased rate of tax*
20 *imposed upon cigarettes that became law on July 1, 2018, to the director*
21 *of accounts and reports, and shall transmit a copy of each such*
22 *certification to the director of the budget and the director of legislative*
23 *research. Upon receipt of each such certification, the director of accounts*
24 *and reports shall transfer such amount from the state general fund to the*
25 *medicaid expansion fund established by section 1, and amendments*
26 *thereto.*

27 Sec. 7. K.S.A. 2017 Supp. 79-3310, 79-3310c, 79-3311, 79-3312 and
28 79-3387 are hereby repealed.

29 Sec. 8. This act shall take effect and be in force from and after its
30 publication in the statute book.