

HOUSE BILL No. 2563

By Committee on Federal and State Affairs

2-4

1 AN ACT concerning cigarettes and tobacco products; increasing the
2 minimum age to purchase or possess such products; prohibiting
3 cigarette vending machines and self-service displays; amending K.S.A.
4 72-6285, 79-3301, 79-3302, 79-3303, 79-3304, 79-3309, 79-3316, 79-
5 3321, 79-3322, 79-3323, 79-3326, 79-3334, 79-3335, 79-3388, 79-
6 3391, 79-3394, 79-3396 and 79-3399 and K.S.A. 2019 Supp. 21-5102,
7 21-6109, 21-6110 and 50-6a14 and repealing the existing sections; also
8 repealing K.S.A. 79-3310c.
9

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

11 Section 1. K.S.A. 2019 Supp. 21-5102 is hereby amended to read as
12 follows: 21-5102. A crime is an act or omission defined by law and for
13 which, upon conviction, a sentence of death, imprisonment or fine, or both
14 imprisonment and fine, is authorized or, in the case of a traffic infraction
15 or a cigarette or tobacco infraction, a fine is authorized. Crimes are
16 classified as felonies, misdemeanors, traffic infractions and cigarette or
17 tobacco infractions.

18 (a) A felony is a crime punishable by death or by imprisonment in
19 any state correctional institution or a crime which is defined as a felony by
20 law.

21 (b) A traffic infraction is a violation of any of the statutory provisions
22 listed in ~~subsection (e) of K.S.A. 8-2118(c)~~, and amendments thereto.

23 (c) A cigarette or tobacco infraction is a violation of K.S.A. 2019
24 Supp. 21-6109 through 21-6114 and 21-6116 ~~and subsection (m) or (n) of~~
25 ~~K.S.A. 79-3321~~, and amendments thereto.

26 (d) All other crimes are misdemeanors.

27 Sec. 2. K.S.A. 2019 Supp. 21-6109 is hereby amended to read as
28 follows: 21-6109. As used in K.S.A. 2019 Supp. 21-6109 through 21-6116,
29 and amendments thereto:

30 (a) "Access point" means the area within a ten foot radius outside of
31 any doorway, open window or air intake leading into a building or facility
32 that is not exempted pursuant to K.S.A. 2019 Supp. 21-6110(d), and
33 amendments thereto.

34 (b) "Bar" means any indoor area that is operated and licensed for the
35 sale and service of alcoholic beverages, including alcoholic liquor as
36 defined in K.S.A. 41-102, and amendments thereto, or cereal malt

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

6 ~~(w)~~(s) To alter the package of any cigarettes, *electronic cigarettes or*
7 *consumable material*, prior to sale or distribution to the ultimate consumer,
8 so as to remove, conceal or obscure:

9 (1) Any statement, label, stamp, sticker or notice described in
10 subsection~~(v)~~ (r); or

11 (2) any health warning that is not specified in, or does not conform
12 with, the requirements of; the federal cigarette labeling and advertising act,
13 15 U.S.C. § 1333.

14 ~~(x)~~(t) To affix any stamp required pursuant to K.S.A. 79-3311, and
15 amendments thereto, to the package of any cigarettes described in
16 subsection~~(v)~~ (r) or altered in violation of subsection~~(w)~~ (s).

17 ~~(y)~~(u) To possess, sell, transport, import, distribute, wholesale or
18 manufacture cigarettes, smokeless tobacco or roll-your-own tobacco in
19 violation of K.S.A. 50-6a01 et seq., and amendments thereto.

20 ~~(z)~~(v) To sell cigarettes, smokeless tobacco or roll-your-own tobacco
21 in any manner that is not a direct, face-to-face exchange between the
22 retailer and the consumer, except: ~~(1)~~ mail-order sales, which shall not
23 include mail-order redemption coupons and distribution of free samples
24 through the mail; ~~(2)~~ vending machines as provided in subsection (t); and
25 ~~(3)~~ self-service displays as provided in subsection (u).

26 ~~(w) To sell: (1) Any electronic cigarette that contains flavored~~
27 ~~consumable material, except menthol-flavored consumable material; or~~
28 ~~(2) any flavored consumable material, except menthol-flavored~~
29 ~~consumable material.~~

30 Sec. 13. K.S.A. 79-3322 is hereby amended to read as follows: 79-
31 3322. (a) (1) Except as otherwise provided in this act, a violation of K.S.A.
32 79-3321(a), (c), (d), (f), (h), (i), (j), ~~(v)~~, ~~(w)~~, ~~(x)~~ or ~~(y)~~ (r), (s), (t), ~~(u)~~ or
33 ~~(w)~~, and amendments thereto, is a:

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

36 (B) severity level 6, nonperson felony for a second violation, and the
37 offender shall be fined not less than \$50,000 nor more than \$100,000 upon
38 a second conviction; and

39 (C) severity level 6, nonperson felony for a third and all subsequent
40 violations, and the offender shall be fined \$100,000 upon a third and all
41 subsequent convictions.

42 (2) It shall be a defense to prosecution under K.S.A. 79-3321(a), and
43 amendments thereto, that a licensee has: (A) Segregated the cigarettes

Strike all in lines 26-29

or

Strike in lines 32 & 33