

HOUSE BILL No. 2720

By Committee on Taxation

2-23

1 AN ACT concerning sales and compensating use tax; providing a 0% state
2 rate for sales of food; amending K.S.A. 13-13a39 and K.S.A. 2021
3 Supp. 12-189a, 79-3603 and 79-3703 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2021 Supp. 12-189a is hereby amended to read as
8 follows: 12-189a. The following sales shall be subject to the taxes levied
9 and collected by all cities and counties under the provisions of K.S.A. 12-
10 187 et seq., and amendments thereto:

11 (a) All sales of natural gas, electricity, heat and water delivered
12 through mains, lines or pipes to residential premises for noncommercial
13 use by the occupant of such premises and all sales of natural gas,
14 electricity, heat and water delivered through mains, lines or pipes for
15 agricultural use, except that effective January 1, 2006, the provisions of
16 this subsection shall expire for sales of water pursuant to this subsection;

17 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources
18 for the production of heat or lighting for noncommercial use of an
19 occupant of residential premises; ~~and~~

20 (c) all sales of intrastate telephone and telegraph services for
21 noncommercial use; *and*

22 (d) *all sales of food as defined in K.S.A. 79-3603(x), and amendments*
23 *thereto.*

24 Sec. 2. K.S.A. 13-13a39 is hereby amended to read as follows: 13-
25 13a39. ~~The following~~ *Sales subject to the countywide and city retailers'*
26 *sales tax pursuant to K.S.A. 12-189a, and amendments thereto,* shall also
27 be subject to the taxes levied by Washburn University of Topeka under the
28 provisions of K.S.A. 13-13a38, and amendments thereto:

29 ~~(a) All sales of natural gas, electricity, heat and water delivered~~
30 ~~through mains, lines or pipes to residential premises for noncommercial~~
31 ~~use by the occupant of such premises and all sales of natural gas,~~
32 ~~electricity, heat and water delivered through mains, lines or pipes for~~
33 ~~agricultural use;~~

34 ~~(b) all sales of propane gas, LP-gas, coal, wood and other fuel sources~~
35 ~~for the production of heat or lighting for noncommercial use of an~~
36 ~~occupant of residential premises; and~~

1 ~~(e) all sales of intrastate telephone and telegraph services for~~
2 ~~noncommercial use.~~

3 Sec. 3. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
4 follows: 79-3603. For the privilege of engaging in the business of selling
5 tangible personal property at retail in this state or rendering or furnishing
6 any of the services taxable under this act, there is hereby levied and there
7 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,
8 2021, 16.154% of the 6.5% rate imposed shall be levied for the state
9 highway fund, the state highway fund purposes and those purposes
10 specified in K.S.A. 68-416, and amendments thereto, and all revenue
11 collected and received from such tax levy shall be deposited in the state
12 highway fund.

13 Within a redevelopment district established pursuant to K.S.A. 74-
14 8921, and amendments thereto, there is hereby levied and there shall be
15 collected and paid an additional tax at the rate of 2% until the earlier of the
16 date the bonds issued to finance or refinance the redevelopment project
17 have been paid in full or the final scheduled maturity of the first series of
18 bonds issued to finance any part of the project.

19 *Such tax shall be imposed upon:*

20 (a) The gross receipts received from the sale of tangible personal
21 property at retail within this state;

22 (b) the gross receipts from intrastate, interstate or international
23 telecommunications services and any ancillary services sourced to this
24 state in accordance with K.S.A. 79-3673, and amendments thereto, except
25 that telecommunications service does not include: (1) Any interstate or
26 international 800 or 900 service; (2) any interstate or international private
27 communications service as defined in K.S.A. 79-3673, and amendments
28 thereto; (3) any value-added nonvoice data service; (4) any
29 telecommunication service to a provider of telecommunication services
30 which will be used to render telecommunications services, including
31 carrier access services; or (5) any service or transaction defined in this
32 section among entities classified as members of an affiliated group as
33 provided by section 1504 of the federal internal revenue code of 1986, as
34 in effect on January 1, 2001;

35 (c) the gross receipts from the sale or furnishing of gas, water,
36 electricity and heat, which sale is not otherwise exempt from taxation
37 under the provisions of this act, and whether furnished by municipally or
38 privately owned utilities, except that, on and after January 1, 2006, for
39 sales of gas, electricity and heat delivered through mains, lines or pipes to
40 residential premises for noncommercial use by the occupant of such
41 premises, and for agricultural use and also, for such use, all sales of
42 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
43 gas, coal, wood and other fuel sources for the production of heat or

1 lighting for noncommercial use of an occupant of residential premises, the
2 state rate shall be 0%, but such tax shall not be levied and collected upon
3 the gross receipts from: (1) The sale of a rural water district benefit unit;
4 (2) a water system impact fee, system enhancement fee or similar fee
5 collected by a water supplier as a condition for establishing service; or (3)
6 connection or reconnection fees collected by a water supplier;

7 (d) the gross receipts from the sale of meals or drinks furnished at any
8 private club, drinking establishment, catered event, restaurant, eating
9 house, dining car, hotel, drugstore or other place where meals or drinks are
10 regularly sold to the public;

11 (e) the gross receipts from the sale of admissions to any place
12 providing amusement, entertainment or recreation services including
13 admissions to state, county, district and local fairs, but such tax shall not
14 be levied and collected upon the gross receipts received from sales of
15 admissions to any cultural and historical event which occurs triennially;

16 (f) the gross receipts from the operation of any coin-operated device
17 dispensing or providing tangible personal property, amusement or other
18 services except laundry services, whether automatic or manually operated;

19 (g) the gross receipts from the service of renting of rooms by hotels,
20 as defined by K.S.A. 36-501, and amendments thereto, or by
21 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
22 thereto, but such tax shall not be levied and collected upon the gross
23 receipts received from sales of such service to the federal government and
24 any agency, officer or employee thereof in association with the
25 performance of official government duties;

26 (h) the gross receipts from the service of renting or leasing of tangible
27 personal property except such tax shall not apply to the renting or leasing
28 of machinery, equipment or other personal property owned by a city and
29 purchased from the proceeds of industrial revenue bonds issued prior to
30 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
31 12-1749, and amendments thereto, and any city or lessee renting or leasing
32 such machinery, equipment or other personal property purchased with the
33 proceeds of such bonds who shall have paid a tax under the provisions of
34 this section upon sales made prior to July 1, 1973, shall be entitled to a
35 refund from the sales tax refund fund of all taxes paid thereon;

36 (i) the gross receipts from the rendering of dry cleaning, pressing,
37 dyeing and laundry services except laundry services rendered through a
38 coin-operated device whether automatic or manually operated;

39 (j) the gross receipts from the rendering of the services of washing
40 and washing and waxing of vehicles;

41 (k) the gross receipts from cable, community antennae and other
42 subscriber radio and television services;

43 (l) (1) except as otherwise provided by paragraph (2), the gross

1 receipts received from the sales of tangible personal property to all
2 contractors, subcontractors or repairmen for use by them in erecting
3 structures, or building on, or otherwise improving, altering, or repairing
4 real or personal property.

5 (2) Any such contractor, subcontractor or repairman who maintains
6 an inventory of such property both for sale at retail and for use by them for
7 the purposes described by paragraph (1) shall be deemed a retailer with
8 respect to purchases for and sales from such inventory, except that the
9 gross receipts received from any such sale, other than a sale at retail, shall
10 be equal to the total purchase price paid for such property and the tax
11 imposed thereon shall be paid by the deemed retailer;

12 (m) the gross receipts received from fees and charges by public and
13 private clubs, drinking establishments, organizations and businesses for
14 participation in sports, games and other recreational activities, but such tax
15 shall not be levied and collected upon the gross receipts received from: (1)
16 Fees and charges by any political subdivision, by any organization exempt
17 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
18 thereto, or by any youth recreation organization exclusively providing
19 services to persons 18 years of age or younger which is exempt from
20 federal income taxation pursuant to section 501(c)(3) of the federal
21 internal revenue code of 1986, for participation in sports, games and other
22 recreational activities; and (2) entry fees and charges for participation in a
23 special event or tournament sanctioned by a national sporting association
24 to which spectators are charged an admission which is taxable pursuant to
25 subsection (e);

26 (n) the gross receipts received from dues charged by public and
27 private clubs, drinking establishments, organizations and businesses,
28 payment of which entitles a member to the use of facilities for recreation
29 or entertainment, but such tax shall not be levied and collected upon the
30 gross receipts received from: (1) Dues charged by any organization exempt
31 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
32 amendments thereto; and (2) sales of memberships in a nonprofit
33 organization which is exempt from federal income taxation pursuant to
34 section 501(c)(3) of the federal internal revenue code of 1986, and whose
35 purpose is to support the operation of a nonprofit zoo;

36 (o) the gross receipts received from the isolated or occasional sale of
37 motor vehicles or trailers but not including: (1) The transfer of motor
38 vehicles or trailers by a person to a corporation or limited liability
39 company solely in exchange for stock securities or membership interest in
40 such corporation or limited liability company; (2) the transfer of motor
41 vehicles or trailers by one corporation or limited liability company to
42 another when all of the assets of such corporation or limited liability
43 company are transferred to such other corporation or limited liability

1 company; or (3) the sale of motor vehicles or trailers which are subject to
2 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
3 amendments thereto, by an immediate family member to another
4 immediate family member. For the purposes of paragraph (3), immediate
5 family member means lineal ascendants or descendants, and their spouses.
6 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
7 on the isolated or occasional sale of motor vehicles or trailers on and after
8 July 1, 2004, which the base for computing the tax was the value pursuant
9 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
10 such amount was higher than the amount of sales tax which would have
11 been paid under the law as it existed on June 30, 2004, shall be refunded to
12 the taxpayer pursuant to the procedure prescribed by this section. Such
13 refund shall be in an amount equal to the difference between the amount of
14 sales tax paid by the taxpayer and the amount of sales tax which would
15 have been paid by the taxpayer under the law as it existed on June 30,
16 2004. Each claim for a sales tax refund shall be verified and submitted not
17 later than six months from the effective date of this act to the director of
18 taxation upon forms furnished by the director and shall be accompanied by
19 any additional documentation required by the director. The director shall
20 review each claim and shall refund that amount of tax paid as provided by
21 this act. All such refunds shall be paid from the sales tax refund fund, upon
22 warrants of the director of accounts and reports pursuant to vouchers
23 approved by the director of taxation or the director's designee. No refund
24 for an amount less than \$10 shall be paid pursuant to this act. In
25 determining the base for computing the tax on such isolated or occasional
26 sale, the fair market value of any motor vehicle or trailer traded in by the
27 purchaser to the seller may be deducted from the selling price;

28 (p) the gross receipts received for the service of installing or applying
29 tangible personal property which when installed or applied is not being
30 held for sale in the regular course of business, and whether or not such
31 tangible personal property when installed or applied remains tangible
32 personal property or becomes a part of real estate, except that no tax shall
33 be imposed upon the service of installing or applying tangible personal
34 property in connection with the original construction of a building or
35 facility, the original construction, reconstruction, restoration, remodeling,
36 renovation, repair or replacement of a residence or the construction,
37 reconstruction, restoration, replacement or repair of a bridge or highway.

38 For the purposes of this subsection:

39 (1) "Original construction"—~~shall mean~~ *means* the first or initial
40 construction of a new building or facility. The term "original construction"
41 shall include the addition of an entire room or floor to any existing
42 building or facility, the completion of any unfinished portion of any
43 existing building or facility and the restoration, reconstruction or

1 replacement of a building, facility or utility structure damaged or
2 destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice
3 loading and attendant winds, terrorism or earthquake, but such term,
4 except with regard to a residence, shall not include replacement,
5 remodeling, restoration, renovation or reconstruction under any other
6 circumstances;

7 (2) "building"~~shall mean~~ *means* only those enclosures within which
8 individuals customarily are employed, or which are customarily used to
9 house machinery, equipment or other property, and including the land
10 improvements immediately surrounding such building;

11 (3) "facility"~~shall mean~~ *means* a mill, plant, refinery, oil or gas well,
12 water well, feedlot or any conveyance, transmission or distribution line of
13 any cooperative, nonprofit, membership corporation organized under or
14 subject to the provisions of K.S.A. 17-4601 et seq., and amendments
15 thereto, or municipal or quasi-municipal corporation, including the land
16 improvements immediately surrounding such facility;

17 (4) "residence"~~shall mean~~ *means* only those enclosures within which
18 individuals customarily live;

19 (5) "utility structure"~~shall mean~~ *means* transmission and distribution
20 lines owned by an independent transmission company or cooperative, the
21 Kansas electric transmission authority or natural gas or electric public
22 utility; and

23 (6) "windstorm"~~shall mean~~ *means* straight line winds of at least 80
24 miles per hour as determined by a recognized meteorological reporting
25 agency or organization;

26 (q) the gross receipts received for the service of repairing, servicing,
27 altering or maintaining tangible personal property which when such
28 services are rendered is not being held for sale in the regular course of
29 business, and whether or not any tangible personal property is transferred
30 in connection therewith. The tax imposed by this subsection shall be
31 applicable to the services of repairing, servicing, altering or maintaining an
32 item of tangible personal property which has been and is fastened to,
33 connected with or built into real property;

34 (r) the gross receipts from fees or charges made under service or
35 maintenance agreement contracts for services, charges for the providing of
36 which are taxable under the provisions of subsection (p) or (q);

37 (s) on and after January 1, 2005, the gross receipts received from the
38 sale of prewritten computer software and the sale of the services of
39 modifying, altering, updating or maintaining prewritten computer
40 software, whether the prewritten computer software is installed or
41 delivered electronically by tangible storage media physically transferred to
42 the purchaser or by load and leave;

43 (t) the gross receipts received for telephone answering services;

1 (u) the gross receipts received from the sale of prepaid calling service
 2 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
 3 amendments thereto;

4 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
 5 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
 6 exempt from taxes imposed pursuant to this section; ~~and~~

7 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
 8 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
 9 pursuant to this section; *and*

10 (x) *commencing on August 1, 2022, and thereafter, the state rate shall*
 11 *be 0% on the gross receipts from the sale of food. As used in this*
 12 *subsection, "food" means only those products and those types of food that*
 13 *may be eligible for purchase with supplemental nutrition assistance*
 14 *benefits under the supplemental nutrition assistance program issued by the*
 15 *United States department of agriculture as provided in 7 U.S.C. § 2011 et*
 16 *seq.*

17 Sec. 4. K.S.A. 2021 Supp. 79-3703 is hereby amended to read as
 18 follows: 79-3703. (a) There is hereby levied and there shall be collected
 19 from every person in this state a tax or excise for the privilege of using,
 20 storing, or consuming within this state any article of tangible personal
 21 property. Such tax shall be levied and collected in an amount equal to the
 22 consideration paid by the taxpayer multiplied by the rate of 6.5%.

23 (b) *Commencing on August 1, 2022, and thereafter, the state rate*
 24 *shall be 0% on the consideration paid by the taxpayer from the sale of*
 25 *food as defined in K.S.A. 79-3603(x), and amendments thereto.*

26 (c) On and after July 1, 2021, 16.154% at the 6.5% rate imposed shall
 27 be levied for the state highway fund, the state highway fund purposes and
 28 those purposes specified in K.S.A. 68-416, and amendments thereto, and
 29 all revenue collected and received from such tax levy shall be deposited in
 30 the state highway fund.

31 (d) Within a redevelopment district established pursuant to K.S.A.
 32 74-8921, and amendments thereto, there is hereby levied and there shall be
 33 collected and paid an additional tax of 2% until the earlier of: (1) The date
 34 the bonds issued to finance or refinance the redevelopment project
 35 undertaken in the district have been paid in full; or (2) the final scheduled
 36 maturity of the first series of bonds issued to finance the redevelopment
 37 project.

38 (e) All property purchased or leased within or without this state and
 39 subsequently used, stored or consumed in this state shall be subject to the
 40 compensating tax if the same property or transaction would have been
 41 subject to the Kansas retailers' sales tax had the transaction been wholly
 42 within this state.

43 Sec. 5. K.S.A. 13-13a39 and K.S.A. 2021 Supp. 12-189a, 79-3603

1 and 79-3703 are hereby repealed.

2 Sec. 6. This act shall take effect and be in force from and after its
3 publication in the statute book.