

HOUSE BILL No. 2710

By Committee on Financial Institutions and Pensions

Requested by Bob Stuart on behalf of the Kansas Bureau of Investigation

2-6

1 AN ACT concerning money transmission; imposing an excise tax on each
2 transaction by a money transmitter by wire; establishing an income tax
3 credit for excise taxes paid; allowing the state bank commissioner to
4 assess penalties for the nonpayment of such excise tax; providing for
5 the distribution of such excise tax and penalty moneys; establishing the
6 criminal litigation fund, wire transfer fee fund and prosecutor and law
7 enforcement grant fund; creating a misdemeanor crime of unlawful
8 transmission of a wire transfer and providing criminal penalties
9 therefor; amending K.S.A. 9-508 and K.S.A. 2023 Supp. 75-5133 and
10 repealing the existing sections.

11

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

13 New Section 1. (a) Any money transmitter by wire, as defined in
14 K.S.A. 9-508, and amendments thereto, shall collect an excise tax of \$7.50
15 for each transaction of \$500 or less, or an amount equal to 1.5% of any
16 transaction in excess of \$500. A receipt for such excise tax shall be issued
17 to the customer.

18 (b) Any such money transmitter by wire shall file monthly reports
19 and returns with the director of taxation electronically at such times, in
20 such form and with such information, including records of all transaction
21 receipts, as required by the director of taxation. The money transmitter by
22 wire, at the time of filing such monthly return, shall pay by electronic fund
23 transfer to the director of taxation the amount of excise taxes collected as
24 provided by this section. Such return and payment of excise taxes shall be
25 due on or before the 25th day of each month following the monthly
26 reporting period of the return.

27 (c) The secretary of revenue:

28 (1) Shall notify the state bank commissioner of any money transmitter
29 by wire that has not filed a monthly report for more than 60 days;

30 (2) may, upon request of the commissioner, assist in conducting
31 audits and the seeking of legal remedies to ensure compliance with this
32 section;

33 (3) may request the commissioner to make a claim against the surety
34 bond of the money transmitter by wire for unpaid excise taxes, interest and
35 fines on behalf of the state; and

1 (4) may adopt rules and regulations necessary to administer the
2 provisions of subsections (a) through (c).

3 (d) The commissioner may:

4 (1) Assess penalties equal to the amount of excise taxes owed for
5 nonpayment of excise taxes as provided in this section;

6 (2) make a claim against the surety bond of the licensee for unpaid
7 excise taxes, interest and fines on behalf of the state upon the request of
8 the director of taxation; and

9 (3) adopt rules and regulations necessary to administer the provisions
10 of this subsection.

11 (e) (1) All money transmitter by wire excise tax moneys collected by
12 the director of taxation and all penalties assessed by the commissioner
13 pursuant to this section shall be remitted to the state treasurer on July 15,
14 2025, and each July 15, thereafter. Upon receipt of each such remittance,
15 the state treasurer shall deposit the entire amount in the state treasury and
16 shall credit to the state general fund an amount equal to the amount of tax
17 credits allowed under section 3, and amendments thereto, for the
18 immediately preceding tax year, as certified by the director of taxation.
19 The balance of such excise tax and penalty moneys shall be credited as
20 follows:

21 (A) 30% to the criminal litigation fund established in section 2, and
22 amendments thereto;

23 (B) 45% to the wire transfer fee fund established in section 3, and
24 amendments thereto; and

25 (C) 25% to the prosecutor and law enforcement grant fund
26 established in section 4, and amendments thereto.

27 (2) At the same time that the director of taxation transmits
28 certification to the state treasurer, the director of taxation shall transmit a
29 copy of each such certification to the director of the budget and the
30 director of legislative research.

31 (f) The provisions of K.S.A. 79-3609, 79-3610, 79-3611, 79-3612,
32 79-3615, 79-3617 and 79-3643, and amendments thereto, shall apply to the
33 administration and enforcement of the excise tax authorized by this
34 section.

35 New Sec. 2. There is hereby established in the state treasury the
36 criminal litigation fund. The criminal litigation fund shall be administered
37 by the attorney general. All expenditures from such fund shall be for the
38 costs of investigating and prosecuting criminal cases. No expenditures
39 shall be made from such fund for the activities of the medicaid fraud and
40 abuse division created by K.S.A. 75-725, and amendments thereto. All
41 expenditures from such fund shall be made in accordance with
42 appropriation acts upon warrants of the director of accounts and reports
43 issued pursuant to vouchers approved by the attorney general or the

1 attorney general's designee.

2 New Sec. 3. There is hereby established in the state treasury the wire
3 transfer fee fund. The wire transfer fee fund shall be administered by the
4 director of the Kansas bureau of investigation. All expenditures from such
5 fund shall be for complex drug and white-collar criminal investigations.
6 All expenditures from such fund shall be made in accordance with
7 appropriation acts upon warrants of the director of accounts and reports
8 issued pursuant to vouchers approved by the director of the Kansas bureau
9 of investigation or the director's designee.

10 New Sec. 4. There is hereby established in the state treasury the
11 prosecutor and law enforcement grant fund. The prosecutor and law
12 enforcement grant fund shall be administered by the Kansas criminal
13 justice coordinating council established by K.S.A. 74-9501, and
14 amendments thereto. All moneys credited to such fund shall be for the
15 purpose of awarding grants to county attorneys or district attorneys or
16 local law enforcement agencies in accordance with the standards and
17 statewide strategic plan adopted for the federal Edward Byrne memorial
18 justice assistance grant program. All expenditures from such fund shall be
19 made in accordance with appropriation acts upon warrants of the director
20 of accounts and reports issued pursuant to vouchers approved by the
21 chairperson of the Kansas criminal justice coordinating council or the
22 chairperson's designee.

23 New Sec. 5. (a) For taxable years commencing after December 31,
24 2023, there shall be allowed a credit against the tax imposed by the Kansas
25 income tax act and the privilege tax pursuant to K.S.A. 79-1106 et seq.,
26 and amendments thereto, an amount equal to the amount of any excise
27 taxes paid pursuant to the provisions of section 1, and amendments thereto,
28 during the tax year.

29 (b) The credit allowed by this section shall not exceed the amount of
30 tax imposed under the Kansas income tax act or the privilege tax reduced
31 by the sum of any other credits allowable pursuant to law. If the amount of
32 such tax credit exceeds the taxpayer's income or privilege tax liability for
33 such tax year, the taxpayer may carry over the amount that exceeds such
34 tax liability for deduction from the taxpayer's liability in the next
35 succeeding tax year or years until the total amount of the tax credit has
36 been deducted from tax liability, except that no such tax credit shall be
37 carried over for deduction after the 5th tax year succeeding the tax year in
38 which the expenditures were incurred.

39 New Sec. 6. (a) Unlawful transmission of a wire transfer is any of the
40 following when done by a person who is not a United States citizen or an
41 alien who is lawfully present in the United States:

- 42 (1) Sending or receiving a wire transfer;
- 43 (2) depositing money in a financial institution for the purpose of

1 sending a wire transfer; or

2 (3) withdrawing the proceeds of a wire transfer.

3 (b) Unlawful transmission of a wire transfer is a class C nonperson
4 misdemeanor.

5 (c) This section shall be a part of and supplemental to the Kansas
6 criminal code.

7 Sec. 7. K.S.A. 9-508 is hereby amended to read as follows: 9-508. As
8 used in this act:

9 (a) "Agent" means a person designated by a licensee to receive funds
10 from a Kansas resident in order to forward such funds to the licensee to
11 effectuate money transmission at one or more physical locations
12 throughout the state or through the internet, regardless of whether such
13 person would be exempt from the act by conducting money transmission
14 on such person's own behalf;

15 (b) "commissioner" means the state bank commissioner;

16 (c) "control" means the power directly or indirectly to direct
17 management or policies of a person engaged in money transmission or to
18 vote 25% or more of any class of voting shares of a person engaged in
19 money transmission;

20 (d) "electronic instrument" means a card or other tangible object for
21 the transmission or payment of money, including a prepaid access card or
22 device which contains a microprocessor chip, magnetic stripe or other
23 means for the storage of information, that is prefunded and for which the
24 value is decremented upon each use, but does not include a card or other
25 tangible object that is redeemable by the issuer in goods or services;

26 (e) "licensee" means a person licensed under this act;

27 (f) "nationwide multi-state licensing system and registry" means a
28 licensing system developed and maintained by the conference of state
29 bank supervisors, or its successors and assigns, for the licensing and
30 reporting of those persons engaging in the money transmission;

31 (g) "monetary value" means a medium of exchange, whether or not
32 redeemable in money;

33 (h) "money transmission" means to engage in the business of the sale
34 or issuance of payment instruments or of receiving money or monetary
35 value for transmission to a location within or outside the United States by
36 wire, facsimile, electronic means or any other means, except that money
37 transmission does not include currency exchange where no transmission of
38 money occurs;

39 (i) *"money transmitter by wire" means any person receiving payment*
40 *for the service of sending or receiving money from another location or*
41 *person. "Money transmitter by wire" does not include:*

42 (1) *The United States government or a department, agency or*
43 *instrumentality thereof;*

- 1 (2) *money transmission by the United States postal service or by a*
2 *contractor on behalf of the United States postal service;*
- 3 (3) *a state, county, city or any other governmental agency or political*
4 *subdivision of a state;*
- 5 (4) *electronic funds transfer of governmental benefits for a federal,*
6 *state, county or governmental agency by a contractor on behalf of the*
7 *United States government or a department, agency or instrumentality*
8 *thereof, a state or governmental subdivision, agency or instrumentality*
9 *thereof;*
- 10 (5) *a board of trade designated as a contract market under the*
11 *federal commodity exchange act or a person that, in the ordinary course*
12 *of business, provides clearance and settlement services for a board of*
13 *trade to the extent of such person's operation as or for such a board of*
14 *trade;*
- 15 (6) *a registered futures commission merchant under the federal*
16 *commodities law to the extent of its operation as such merchant;*
- 17 (7) *a person that provides clearance or settlement services pursuant*
18 *to a registration as a clearing agency or an exemption from such*
19 *registration granted under federal securities law to the extent of such*
20 *person's operation as a provider;*
- 21 (8) *an operator of a payment system to the extent that such operator*
22 *provides processing, clearing or settlement services, between or among*
23 *persons excluded by this subsection, in connection with wire transfers,*
24 *credit card transactions, debit card transactions, stored-value*
25 *transactions, automated clearing house transfers or similar funds*
26 *transfers; or*
- 27 (9) *a person registered as a securities broker-dealer under federal or*
28 *state securities law to the extent of such person's operation as a broker-*
29 *dealer;*
- 30 (j) "outstanding payment liability" means:
- 31 (1) With respect to a payment instrument, any payment instrument
32 issued or sold by the licensee which has been sold in the United States
33 directly by the licensee, or any payment instrument that has been sold by
34 an agent of the licensee in the United States, which has been reported to
35 the licensee as having been sold and which has not yet been paid by or for
36 the licensee; or
- 37 (2) with respect to the transmission of money or monetary value, any
38 money or monetary value the licensee or an agent of the licensee has
39 received from a customer in the United States for transmission which has
40 not yet been delivered to the recipient or otherwise paid by the licensee;
- 41 (⊕)(k) "payment instrument" means any electronic or written check,
42 draft, money order, travelers check or other electronic or written
43 instrument or order for the transmission or payment of money, sold or

1 issued to one or more persons, whether or not such instrument is
 2 negotiable. The term "payment instrument" does not include any credit
 3 card voucher, any letter of credit or any instrument which is redeemable by
 4 the issuer in goods or services;

5 ~~(k)~~(l) "permissible investments" means:

6 (1) Cash;

7 (2) deposits in a demand or interest bearing account with a domestic
 8 federally insured depository institution, including certificates of deposit;

9 (3) debt obligations of a domestic federally insured depository
 10 institution;

11 (4) any investment bearing a rating of one of the three highest grades
 12 as defined by a nationally recognized organization that rates such
 13 securities;

14 (5) investment grade bonds and other legally created general
 15 obligations of a state, an agency or political subdivision of a state, the
 16 United States ~~or an instrumentality of the United States government or a~~
 17 ~~department, agency or instrumentality thereof~~;

18 (6) obligations that a state, an agency or political subdivision of a
 19 state, the United States ~~or an instrumentality of the United States~~
 20 ~~government or a department, agency or instrumentality thereof~~ has
 21 unconditionally agreed to purchase, insure or guarantee and that bear a
 22 rating of one of the three highest grades as defined by a nationally
 23 recognized organization that rates securities;

24 (7) shares in a money market mutual fund, interest-bearing bills or
 25 notes or bonds, debentures or stock traded on any national securities
 26 exchange or on a national over-the-counter market, or mutual funds
 27 primarily composed of such securities or a fund composed of one or more
 28 permissible investments as set forth herein;

29 (8) receivables that are payable to a licensee, in the ordinary course of
 30 business, pursuant to contracts which are not past due and which do not
 31 exceed in the aggregate 40% of the total required permissible investments
 32 pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past
 33 due if not remitted to the licensee within 10 business days; or

34 (9) any other investment or security device approved by the
 35 commissioner;

36 ~~(h)~~(m) "person" means any individual, partnership, association, joint-
 37 stock association, trust, corporation or any other form of business
 38 enterprise;

39 ~~(i)~~(n) "resident" means any natural person or business entity located
 40 in this state;

41 ~~(j)~~(o) "service provider" means any person that provides services as
 42 described in K.S.A. 9-511(a)(2)(A), and amendments thereto, that are used
 43 by an exempt entity or its agent to provide money transmission services to

1 the exempt entity's customers. A service provider does not contract with
2 the customers of an exempt entity on its own or on behalf of an exempt
3 entity or the exempt entity's agent; and

4 ~~(p)~~ "tangible net worth" means the physical worth of a licensee,
5 calculated by taking a licensee's assets and subtracting its liabilities and its
6 intangible assets, such as copyrights, patents, intellectual property and
7 goodwill.

8 Sec. 8. K.S.A. 2023 Supp. 75-5133 is hereby amended to read as
9 follows: 75-5133. (a) Except as otherwise more specifically provided by
10 law, all information received by the secretary of revenue, the director of
11 taxation or the director of alcoholic beverage control from returns, reports,
12 license applications or registration documents made or filed under the
13 provisions of any law imposing any sales, use or other excise tax
14 administered by the secretary of revenue, the director of taxation, or the
15 director of alcoholic beverage control, or from any investigation conducted
16 under such provisions, shall be confidential, and it shall be unlawful for
17 any officer or employee of the department of revenue to divulge any such
18 information except in accordance with other provisions of law respecting
19 the enforcement and collection of such tax, in accordance with proper
20 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

21 (b) The secretary of revenue or the secretary's designee may:

22 (1) Publish statistics, so classified as to prevent identification of
23 particular reports or returns and the items thereof;

24 (2) allow the inspection of returns by the attorney general or the
25 attorney general's designee;

26 (3) provide the post auditor access to all such excise tax reports or
27 returns in accordance with and subject to the provisions of K.S.A. 46-
28 1106(e), and amendments thereto;

29 (4) disclose taxpayer information from excise tax returns to persons
30 or entities contracting with the secretary of revenue where the secretary
31 has determined disclosure of such information is essential for completion
32 of the contract and has taken appropriate steps to preserve confidentiality;

33 (5) provide information from returns and reports filed under article 42
34 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
35 to county appraisers as is necessary to ensure proper valuations of
36 property. Information from such returns and reports may also be
37 exchanged with any other state agency administering and collecting
38 conservation or other taxes and fees imposed on or measured by mineral
39 production;

40 (6) provide, upon request by a city or county clerk or treasurer or
41 finance officer of any city or county receiving distributions from a local
42 excise tax, monthly reports identifying each retailer doing business in such
43 city or county or making taxable sales sourced to such city or county,

1 setting forth the tax liability and the amount of such tax remitted by each
2 retailer during the preceding month, and identifying each business location
3 maintained by the retailer and such retailer's sales or use tax registration or
4 account number;

5 (7) provide information from returns and applications for registration
6 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
7 3601, and amendments thereto, to a city or county treasurer or clerk or
8 finance officer to explain the basis of statistics contained in reports
9 provided by subsection (b)(6);

10 (8) disclose the following oil and gas production statistics received by
11 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
12 amendments thereto: Volumes of production by well name, well number,
13 operator's name and identification number assigned by the state
14 corporation commission, lease name, leasehold property description,
15 county of production or zone of production, name of purchaser and
16 purchaser's tax identification number assigned by the department of
17 revenue, name of transporter, field code number or lease code, tax period,
18 exempt production volumes by well name or lease; or any combination of
19 this information;

20 (9) release or publish liquor brand registration information provided
21 by suppliers, farm wineries, microdistilleries and microbreweries in
22 accordance with the liquor control act. The information to be released is
23 limited to: Item number, universal numeric code, type status, product
24 description, alcohol percentage, selling units, unit size, unit of
25 measurement, supplier number, supplier name, distributor number and
26 distributor name;

27 (10) release or publish liquor license information provided by liquor
28 licensees, distributors, suppliers, farm wineries, microdistilleries and
29 microbreweries in accordance with the liquor control act. The information
30 to be released is limited to: County name, owner, business name, address,
31 license type, license number, license expiration date and the process agent
32 contact information;

33 (11) release or publish cigarette and tobacco license information
34 obtained from cigarette and tobacco licensees in accordance with the
35 Kansas cigarette and tobacco products act. The information to be released
36 is limited to: County name, owner, business name, address, license type
37 and license number;

38 (12) provide environmental surcharge or solvent fee, or both,
39 information from returns and applications for registration filed pursuant to
40 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
41 of health and environment or the secretary's designee for the sole purpose
42 of ensuring that retailers collect the environmental surcharge tax or solvent
43 fee, or both;

1 (13) provide water protection fee information from returns and
2 applications for registration filed pursuant to K.S.A. 82a-954, and
3 amendments thereto, to the secretary of the state board of agriculture or the
4 secretary's designee and the secretary of the Kansas water office or the
5 secretary's designee for the sole purpose of verifying revenues deposited to
6 the state water plan fund;

7 (14) provide to the secretary of commerce copies of applications for
8 project exemption certificates sought by any taxpayer under the enterprise
9 zone sales tax exemption pursuant to K.S.A. 79-3606(cc), and
10 amendments thereto;

11 (15) disclose information received pursuant to the Kansas cigarette
12 and tobacco act and subject to the confidentiality provisions of this act to
13 any criminal justice agency, as defined in K.S.A. 22-4701(c), and
14 amendments thereto, or to any law enforcement officer, as defined in
15 K.S.A. 21-5111, and amendments thereto, on behalf of a criminal justice
16 agency, when requested in writing in conjunction with a pending
17 investigation;

18 (16) provide to retailers tax exemption information for the sole
19 purpose of verifying the authenticity of tax exemption numbers issued by
20 the department;

21 (17) provide information concerning remittance by sellers, as defined
22 in K.S.A. 12-5363, and amendments thereto, of prepaid wireless 911 fees
23 from returns to the local collection point administrator, as defined in
24 K.S.A. 12-5363, and amendments thereto, for purposes of verifying seller
25 compliance with collection and remittance of such fees;

26 (18) release or publish charitable gaming information obtained in
27 charitable gaming licensee and registration applications and renewals in
28 accordance with the Kansas charitable gaming act, K.S.A. 75-5171 et seq.,
29 and amendments thereto. The information to be released is limited to: The
30 name, address, phone number, license registration number and email
31 address of the organization, distributor or of premises;

32 (19) provide to the attorney general confidential information for
33 purposes of determining compliance with or enforcing K.S.A. 50-6a01 et
34 seq., and amendments thereto, the master settlement agreement referred to
35 therein and all agreements regarding disputes under the master settlement
36 agreement. The secretary and the attorney general may share the
37 information specified under this subsection with any of the following:

38 (A) Federal, state or local agencies for the purposes of enforcement
39 of corresponding laws of other states; and

40 (B) a court, arbitrator, data clearinghouse or similar entity for the
41 purpose of assessing compliance with or making calculations required by
42 the master settlement agreement or agreements regarding disputes under
43 the master settlement agreement, and with counsel for the parties or expert

1 witnesses in any such proceeding, if the information otherwise remains
2 confidential;~~and~~

3 (20) disclose taxpayer information that is received from income tax
4 returns to the department of commerce that may be disclosed pursuant to
5 the provisions of K.S.A. 2023 Supp. 74-50,227, and amendments thereto,
6 for the purpose of including such information in the database required by
7 K.S.A. 2023 Supp. 74-50,227, and amendments thereto; *and*

8 (21) *provide information concerning a money transmitter by wire to*
9 *the state bank commissioner for the purposes of section 1, and*
10 *amendments thereto.*

11 (c) Any person receiving any information under the provisions of
12 subsection (b) shall be subject to the confidentiality provisions of
13 subsection (a) and to the penalty provisions of subsection (d).

14 (d) Any violation of this section shall be a class A, nonperson
15 misdemeanor, and if the offender is an officer or employee of this state,
16 such officer or employee shall be dismissed from office. Reports of
17 violations of this paragraph shall be investigated by the attorney general.
18 The district attorney or county attorney and the attorney general shall have
19 authority to prosecute any violation of this section if the offender is a city
20 or county clerk or treasurer or finance officer of a city or county.

21 Sec. 9. K.S.A. 9-508 and K.S.A. 2023 Supp. 75-5133 are hereby
22 repealed.

23 Sec. 10. This act shall take effect and be in force from and after its
24 publication in the statute book.