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

Sec. 1. On or before July 30, 2012, each distributor, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe, showing other tobacco products on hand at 12:01 a.m. on July 1, 2012. A tax of 20% of the wholesale price of such other tobacco products is hereby imposed and shall be due and payable on or before September 30, 2012. The tax imposed upon such other tobacco products shall be imposed only once under this section. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 2. K.S.A. 2011 Supp. 50-6a07 is hereby amended to read as follows: 50-6a07. As used in this act:

(a) "Act" means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of K.S.A. 2011 Supp. 50-6a07 through 50-6a21, and amendments thereto.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) "Cigarette" has the same meaning given that term in subsection (d) of K.S.A. 50-6a02, and amendments thereto.

(d) "Director" means the director of taxation.

(e) "Master settlement agreement" has the same meaning given that
term in subsection (e) of K.S.A. 50-6a02, and amendments thereto.

(f) "Non-participating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(g) "Participating manufacturer" has the meaning given that term in subsection (i)(1) of K.S.A. 50-6a02, and amendments thereto.

(h) "Qualified escrow fund" has the same meaning given that term in subsection (f) of K.S.A. 50-6a02, and amendments thereto.

(i) "Resident agent" means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

(j) "Retail dealer" has the same meaning given that term in subsection (q) of K.S.A. 79-3301, and amendments thereto.

(k) "Stamping agent" means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

(l) "Tax indicia" has the same meaning given that term in subsection (u) of K.S.A. 79-3301, and amendments thereto.

(m) "Tobacco product manufacturer" has the same meaning given that term in subsection (i) of K.S.A. 50-6a02, and amendments thereto.

(n) "Units sold" has the same meaning given that term in subsection (j) of K.S.A. 50-6a02, and amendments thereto.

(o) "Vending machine operator" has the same meaning given that term in subsection (y) of K.S.A. 79-3301, and amendments thereto.

Sec. 3. K.S.A. 2011 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in K.S.A. 79-3301 et seq., and amendments thereto:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

(d) "Consumer" means the person purchasing or receiving cigarettes
or tobacco products for final use.

(e) "Dealer" means any person who engages in the sale or manufacture of cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(f) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes are sold, and where records are kept.

(g) "Director" means the director of taxation.

(h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;

(2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or

(3) any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

(i) "Division" means the division of taxation.

(j) "License" means the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, and the written evidence of such authority or privilege as issued by the director.

(k) "Licensee" means any person holding a current license issued pursuant to this act, or any person whose license expired and who submitted a renewal application which was received by the director prior to expiration of the previous licensing period.

(l) "Little cigars" means any roll for smoking made wholly or in part of tobacco, if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco, and as to which 1,000 units weigh not more than four pounds. If such product also meets the definition of "cigarette" as provided in subsection (c), such product shall be treated as a cigarette and not as a little cigar for purposes of this act.

(m) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

(n) "Meter imprints" means tax indicia applied by means of ink-printing machines.

(o) "Package" means: (1) A container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer;

(2) for the purposes of subsections (u), (v) and (w) of K.S.A. 79-3321, and amendments thereto, "package" means the same as provided in 15 U.S.C. § 1332(4).

(o) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee
or any other person acting in a fiduciary or representative capacity whether
appointed by a court or otherwise and any combination of individuals.

(p) "Received" means the coming to rest of cigarettes for sale by any
dealer in the state of Kansas.

(q) "Retail dealer" means a person, other than a vending machine
operator, in possession of cigarettes or other tobacco products for the
purpose of sale to a consumer.

(r) "Revocation" means termination by formal action of a license
issued under this act, or the privilege to operate as granted thereunder.

(s) "Sale" means any transfer of title or possession or both,
exchange, barter, distribution or gift of cigarettes or tobacco products, with
or without consideration.

(t) "Sample" means cigarettes or tobacco products distributed to
members of the general public at no cost for purposes of promoting the
product.

(u) "Self-service display" means a display that contains cigarettes
or tobacco products and is located in an area openly accessible to a retail
dealer's consumers, and from which such consumers can readily access
cigarettes or tobacco products without the assistance of a salesperson. A
display case that holds cigarettes or tobacco products behind locked doors
does not constitute a self-service display.

(v) "Stamps" means tax indicia applied either by means of water
applied gummed paper or heat process or pressure.

(w) "Tax indicia" means visible evidence of tax payment in the
form of stamps or meter imprints.

(x) "Tobacco products" means cigars, little cigars, cheroots,
stogies, periques; blunt wrappers, granulated, plug cut, crimp cut, ready
rubbed and other smoking tobacco; snuff, snuff flour, moist snuff;
cavendish; plug and twist tobacco; fine cut and other chewing tobaccos;
shorts; refuse scraps, clippings, cuttings and sweepings of tobacco,
cigarette wrappers made of tobacco and other kinds and forms of tobacco,
prepared in such manner as to be suitable for chewing or smoking in a pipe
or otherwise, or both for chewing and smoking, or for any other form of
human consumption. Tobacco products do not include cigarettes.

(y) "Tobacco speciality store" means a dealer establishment that
derives at least 75% of such dealer establishment's revenue from cigarettes
or tobacco products.

(z) "Vending machine" means any coin operated machine,
contrivance or device, by means of which merchandise may be sold.

(aa) "Vending machine distributor" means any person who sells
cigarette vending machines to a vending machine operator operating
vending machines in the state of Kansas.

(bb) "Vending machine operator" means any person who places a
vending machine, owned, leased or operated by such person, at locations
where cigarettes are sold from such vending machine. The owner or lessee
of the premises upon which a vending machine is placed shall not be
considered the operator of the machine, nor shall the owner or lessee, or
any employee or agent of the owner or lessee be considered an authorized
agent of the vending machine operator, if the owner or lessee does not own
or lease the machine and the owner's or lessee's sole remuneration from the
machine is a flat rental fee or commission based upon the number or value
of cigarettes sold from the machine, or a combination of both.

(bb) "Wholesale dealer" means any person who sells cigarettes to
other wholesale dealers, retail dealers, vending machine operators and
manufacturer's salespersons for the purpose of resale in the state of
Kansas.

(cc) "Wholesale sales price" means the original net invoice price
for which a manufacturer sells a tobacco product to a distributor, as shown
by the manufacturer's original invoice.

(dd) "Importer" means the same as provided in 26 U.S.C. §
5702(l).

(ee) "Manufacturer" means the same as provided in 26 U.S.C. §
5702(d).

Sec. 4. K.S.A. 2011 Supp. 79-3302 is hereby amended to read as
follows: 79-3302. (a) K.S.A. 79-3301 through 79-3304, 79-3306, 79-3309,
79-3310, 79-3311, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321, 79-
3322, 79-3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3371, 79-3373,
79-3398, and amendments thereto, The provisions of article 33 of this
chapter shall be known and may be cited as the Kansas cigarette and
tobacco products act.

(b) It is the purpose and intent of this act to regulate the sale of
cigarettes and tobacco products in this state and to impose a tax thereon.

Sec. 5. K.S.A. 2011 Supp. 79-3303 is hereby amended to read as
follows: 79-3303. (a) Each person engaged in the business of selling
cigarettes in the state of Kansas and each vending machine distributor shall
obtain a license as provided by this act. A separate application, license and
fee is required for each dealer establishment owned or operated by a
dealer. A vending machine operator is required to obtain a vending
machine operator's master license and, in addition, a separate permit for
each vending machine operated by the operator. A vending machine
operator may submit one application for the vending machine operator's
master license and all permits for vending machines operated by the
operator. The license shall be displayed in the dealer establishment and the
vending machine permit shall remain securely and visibly attached to the
vending machine and contain such information as the director may require. Any vending machine found without such permit attached to the machine shall be sealed by an agent of the director and such seal shall be removed only by an agent of the director after payment of the permit fee and the penalties provided by this act.

(b) The application for a vending machine operator's master license and vending machine permits shall list the brand name and serial number of each machine and such other information as required by the director. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the division to divulge or make known in any way the location of any vending machine to any person not an officer or employee of the division, except that such information may be divulged to any law enforcement officer for use in the officer's official duties. Any officer or employee revealing any such location in violation of this provision, in addition to the penalties otherwise provided in this act, shall be dismissed from office.

(c) A vending machine operator, in the course of business as a vending machine operator, may dispose of or sell vending machines without securing a license to sell vending machines. The vending machine operator may move vending machines from one location to another and, if a vending machine becomes inoperative or is disposed of, the permit for such machine may be transferred to another machine. A vending machine operator, within 10 days, shall notify the director of the brand name and serial number of vending machines that become inoperative or that the operator disposes of, sells, acquires or brings into service in this state as additional machines.

(d) The key to the lower or storage compartment of a vending machine shall remain only in the possession of the vending machine operator or the operator's authorized agent. All services connected with the operation of a vending machine shall be performed by the vending machine operator or the operator's authorized agent. All vending machines shall be subject to inspection by the director or the director's authorized agents. No permit shall be issued for a vending machine unless it is constructed so that at least one package of each vertical column of cigarettes located therein is visible showing tax indicia.

(e) All vending machines operated on military installations shall have a permit affixed to the machines and the cigarettes shall show tax indicia of the Kansas tax.

(f) On or before the 10th day of each month, each vending machine distributor shall report to the director, on forms provided by the director, all sales of cigarette vending machines by the distributor to persons in the state of Kansas during the preceding month; the name and address of the purchaser; and the brand name, serial number and sale price of the
machines. The director may require such reports to be filed electronically.

(g) Concurrently with a change in ownership of a dealer establishment the license applicable to the establishment is void and shall be surrendered to the director and shall not be transferred. On removal of a dealer establishment from one location to another, the owner of the establishment shall notify the director and surrender the owner's license. The director shall issue a new license for the unexpired term of the surrendered license on payment of a fee of $2. If a dealer's license is lost, stolen or destroyed, the director may issue a new license on proof of loss, theft or destruction, at a cost of $2. The director shall remit all moneys received under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 6. K.S.A. 79-3304 is hereby amended to read as follows: 79-3304. (a) The license fee for each biennium or portion thereof shall be as follows:

1. For retail dealer's license, $25 for each dealer establishment.
2. For retailer's license on railroad or sleeping cars, $50. Only one retail license need be obtained by each railroad or sleeping car company to permit the sale of cigarettes on any or all of its cars within the state.
3. For show, carnival or catering license, $50 for each concession.
4. For resident retail dealer's temporary license for a place of business of a temporary nature, $2 for each seven days or portion thereof.
5. For wholesale dealer's license, $50 for each dealer establishment. No wholesale dealer's license shall be issued until the person applying therefor has filed with the director a bond payable to the state of Kansas in such an amount as shall be fixed by the director, but in no event less than $1,000, with a corporate surety authorized to do business in the state of Kansas, and approved by the director. If a wholesale dealer is unable to secure a corporate surety bond, the director may issue a license to such wholesale dealer, upon the wholesale dealer furnishing a personal bond meeting the approval of the director. Such bond shall be conditioned on the wholesale dealer's compliance with all the provisions of this act during the license period.
6. For vending machine distributor's license, $50.
7. For manufacturer's salesperson license, $20 for each salesperson. The manufacturer's salesperson shall, with respect to each sale made to a retail dealer, make and deliver to the retail dealer a true invoice wherein such salesperson shall insert the name of the wholesale dealer from whom such salesperson secured such cigarettes, together with such salesperson's own name and the name of the retail dealer purchasing the cigarettes.
8. For vending machine operator's license, no fee.
(9) For vending machine permit, $25 for each permit.

(b) An application for any license required under the provisions of this act may be refused to: (1) A person who is not of good character and reputation in the community in which such person resides; or (2) a person who has been convicted of a felony or of any crime involving moral turpitude or of the violation of any law of any state or the United States pertaining to cigarettes or tobacco products and who has not completed the sentence, parole, probation or assignment to a community correctional services program imposed for any such conviction within two years immediately preceding the date of making application for any of such licenses any applicant who: (1) Has been convicted of a felony under the laws of this state, any other state or the United States; (2) has been convicted of a violation of any law of this state, any other state or the United States pertaining to any regulated substance within 10 years preceding the date of submitting an application for such license; or (3) has had a license revoked under the provisions of this act within 10 years preceding the date of submitting an application for such license. The term "applicant" shall include the president, vice president, secretary, treasurer, manager, member or any other officer, owner or majority shareholder if the license holder is a corporation, limited liability company, partnership or other business entity.

Sec. 7. K.S.A. 79-3309 is hereby amended to read as follows: 79-3309. (a) Whenever the director has reason to believe that any person licensed under this act has violated any of the provisions of this act, the director shall notify the person by certified mail of the director's intention to suspend or revoke the person's license or licenses. Within 10 days after the mailing of the notice, the person may request a hearing in writing before the director. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If, after such hearing, it appears to the satisfaction of the director that the person has violated any of the provisions of this act, the director is hereby authorized and empowered to suspend or revoke the person's license or licenses and. Any license which is revoked shall not be subject to renewal or restoration, except that an application for a new license may be submitted to and acted upon by the director after the expiration of 10 years. In addition, the director may in addition deny the application of the person for a license or licenses for a portion of the succeeding calendar year for such period as the director determines is necessary, but in no case for a period ending more than one year following the date upon which the license or licenses were suspended or revoked. The suspension or revocation of a vending machine operator's master license shall suspend or revoke all vending machine permits issued to the vending machine operator for the term of the license suspension or revocation. If a person
continues to engage in activities requiring a license while such license is suspended, the license shall be immediately revoked and additional fines and penalties may apply pursuant to this act.

(b) If a person continues to engage in activities requiring a license under this act after having notice or knowledge of the suspension or revocation of the person’s license or licenses or after becoming more than 10 days delinquent in the payment of any tax, penalty or interest imposed pursuant to this act, the state shall be entitled, in any proceedings brought for such purposes, to have an order and judgment restraining and enjoining such unlawful sale and no bond shall be required for the issuance of any such restraining order or injunction.

Sec. 8. K.S.A. 2011 Supp. 79-3310 is hereby amended to read as follows: 79-3310. (a) There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. On and after July 1, 2002, and before January 1, 2003, the rate of such tax shall be $.70 on each 20 cigarettes or fractional part thereof or $.875 on each 25 cigarettes, as the case requires. On and after January 1, 2003, the rate of such tax shall be $.79 on each 20 cigarettes or fractional part thereof or $.99 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided. For any purchaser of cigarettes on which such tax has not been paid by the wholesale dealer, the director may proceed directly against such purchaser to collect the full amount of tax due. A purchaser of cigarettes includes a consumer as defined in K.S.A. 79-3301, and amendments thereto.

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

(c) (1) Upon the enactment of any legislative act increasing the tax rate imposed on the privilege of selling or dealing tobacco products as set forth in K.S.A. 79-3371, and amendments thereto, the tax rate imposed under subsection (a) on both packages of 20 cigarettes and packages of 25 cigarettes shall be increased by an amount such that the ratio that the tax rate imposed under subsection (a), prior to the enactment of such legislative act, bears to such new tax rate is the same as the ratio that the tax rate imposed under K.S.A. 79-3371, and amendments thereto, prior to the enactment of such legislative act, bears to the new tax rate imposed under K.S.A. 79-3371, and amendments thereto, upon enactment of such legislative act. The new tax rate as determined pursuant to this subsection shall take effect and be in force from and after the date on which the increase in the tax rate imposed under K.S.A. 79-3371, and amendments
thereto, becomes effective.

(2) The director of taxation shall provide notice of any increase in the tax rate imposed under subsection (a) made pursuant to this subsection to all wholesalers and retail dealers as soon as reasonably practicable. Failure of a wholesaler or retail dealer to receive such notice or failure of the director to provide such notice to a wholesaler or retail dealer shall not relieve the wholesaler or retail dealer of its obligation to collect the tax or otherwise comply with such legislative, rule or regulatory changes.

Sec. 9. K.S.A. 2011 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and Stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of .90% on and after July 1, 2002, and before January 1, 2003, and .80% thereafter from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed $10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes
stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter. Cigarette stamps shall be securely affixed in a manner that preserves the legibility of the serial numbers and other identifying characteristics of the stamp. If a wholesale dealer continuously issues illegible stamped cigarettes, it shall be considered sufficient cause for an administrative fine, suspension or revocation, or combination thereof.

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

Sec. 10. K.S.A. 2011 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less .90% on and after July 1, 2002, and before January 1, 2003, and .80% thereafter thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund
of the tax paid on cigarettes which have become unfit for sale upon proof thereof less .90% on and after July 1, 2002, and before January 1, 2003, and .80% thereafter of such tax.

Sec. 11. K.S.A. 2011 Supp. 79-3313 is hereby amended to read as follows: 79-3313. All cigarettes sold in this state shall be in packages, and each of the packages shall bear evidence of payment of the tax thereon, except that any railroad or sleeping car company licensed as a retailer is hereby authorized to sell cigarettes upon its cars without affixing stamps to the packages of cigarettes, provided, that monthly reports and payment of the tax due is made directly to the director in the manner and under the terms provided for by the director. In addition, manufacturers are hereby authorized to distribute in the state, through their authorized representatives or wholesale dealers, free sample packages of cigarettes containing less than 20 cigarettes without affixing stamps to the packages provided that monthly reports and payment of a tax at the rates prescribed by law are made directly to the director. No wholesale dealer or manufacturers' authorized representatives shall sell or distribute cigarettes except free sample packages, to any person in the state of Kansas not holding a dealer's license as provided in this act. Such packages of sample cigarettes shall bear the word "sample" or "not for sale" and "state tax paid" in letters easily read.

Whenever the director shall have reason to believe that any manufacturer has violated the provisions of this section or the conditions provided by the director, the director shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act. If, upon the basis of such hearing, it appears to the satisfaction of the director that such manufacturer has violated any of the provisions of this section or the conditions provided by the director, the director is hereby authorized to suspend or revoke the authorization to the manufacturer for such period as the director determines is necessary but in no case for more than one year.

Sec. 12. K.S.A. 2011 Supp. 79-3316 is hereby amended to read as follows: 79-3316. (a) All purchases of cigarettes by any dealer shall be evidenced by an invoice, a duplicate of which shall be furnished the party receiving the cigarettes from any dealer.

(b) Purchases of cigarettes by wholesale dealers shall be made from the manufacturers of cigarettes or from other Kansas licensed wholesale dealers. Purchases of cigarettes by retail dealers or vending machine operators shall be from wholesale dealers.

(c) All invoices issued by wholesale dealers shall be in duplicate and a copy must accompany the consigned cigarettes. Cigarettes sold by a wholesale dealer to any other dealer shall be evidenced by invoices bearing the vendee's name and license number. A wholesale dealer selling
cigarettes to a manufacturer's salesperson shall at the time of delivery of
same make a true duplicate invoice inserting therein the name of the
salesman together with the name of such salesperson's employer.
(d) All records pertaining to sales of cigarettes by dealers in the state
of Kansas shall be preserved for a period of three years and shall be
available for inspection by the director or the director's designee at the
dealer's place of business or, if the dealer has more than one place of
business in the state, at a central location of the dealer.
(e) Every wholesale dealer shall report to the director on or before the
10th day of each month, stating the amount of cigarettes sold during the
preceding month and the amount of all cigarettes returned to the
manufacturer. Any wholesale dealer who refuses any shipment or part of a
shipment of unstamped cigarettes or has a shortage in the shipment of
cigarettes consigned to such dealer shall in the monthly report next
following the refusal or shortage report to the director the number of
packages or cartons of cigarettes refused or short and the name of the
carrier from whom the cigarettes were refused or shortage occurred. Such
report shall be made on forms provided by the director and shall contain
such other information as the director may require. The director may
require such reports to be filed electronically.
(f) Exemption from payment of cigarette tax on sale of cigarettes
made outside the state by any wholesale dealer shall be filed on forms
provided by the director.
Sec. 13. K.S.A. 2011 Supp. 79-3321 is hereby amended to read as
follows: 79-3321. It shall be unlawful for any person:
(a) To possess, except as otherwise specifically provided by this act,
more than 200 cigarettes without the required tax indicia being affixed as
herein provided.
(b) To mutilate or attach to any individual package of cigarettes any
stamp that has in any manner been mutilated or that has been heretofore
attached to a different individual package of cigarettes or to have in
possession any stamps so mutilated. To affix any stamp in such a manner
that does not preserve the legibility of the serial number printed on the
stamp and other identifiable characteristics as determined by the director.
(c) To prevent the director or any officer or agent authorized by law,
to make a full inspection for the purpose of this act, of any place of
business and all premises connected thereto where cigarettes are or may be
manufactured, sold, distributed, or given away.
(d) To use any artful device or deceptive practice to conceal any
violation of this act or to mislead the director or officer or agent authorized
by law in the enforcement of this act.
(e) Who is a dealer to fail to produce on demand of the director or
any officer or agent authorized by law any records or invoices required to
be kept by such person.

(f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required by this act all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:

(1) Duly licensed by the state where such manufacturer's salesperson, retail dealer or wholesaler is located; or

(2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.

(i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell, furnish or distribute cigarettes or tobacco products to any person under 18 years of age.

(m) Who is under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products.

(n) Who is under 18 years of age to possess or attempt to possess cigarettes or tobacco products.

(o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(p) To sell cigarettes without having a license for such sale as provided herein.

(q) To sell a vending machine without having a vending machine distributor's license.

(r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes and tobacco products may be sold only to persons 18 years of age and older."

(s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is: (1) In an area to which persons under 18 years of age are denied access.
(2) in or at a retail location where cigarettes and tobacco products are
the primary commodity offered for sale at retail; or
(3) at or adjacent to an outdoor production, repair or construction site
or facility.

(t) To sell cigarettes or tobacco products by means of a vending
machine in any establishment, or portion of an establishment, which is
open to minors, except that this subsection shall not apply to:

(1) The installation and use by the proprietor of the establishment, or
by the proprietor’s agents or employees, of vending machines behind a
counter, or in some place in such establishment, or portion thereof, to
which minors are prohibited by law from having access;

(2) the installation and use of a vending machine in a commercial-
building or industrial plant, or portions thereof, where the public is not
customarily admitted and where machines are intended for the sole use of
adult employees employed in the building or plant; or

(3) a vending machine which has a lock-out device which is
inoperative in the continuous standby mode and which requires manual
activation by the person supervising the operation of the machine each
time cigarettes or tobacco products are purchased from the machine.

(u) To sell cigarettes or tobacco products by means of a self-service
display in any establishment, except that the provisions of this subsection
shall not apply to:

(1) A vending machine that is permitted under subsection (t); or
(2) a self-service display that is located in a tobacco specialty store.

(v) To sell or distribute in this state; to acquire, hold, own, possess or
transport for sale or distribution in this state; or to import or cause to be
imported, into this state for sale or distribution in this state:

(1) Any cigarettes the package of which (A) bears any statement,
label, stamp, sticker or notice indicating that the manufacturer did not
intend the cigarettes to be sold, distributed or used in the United States,
including but not limited to, labels stating "For Export Only", "U.S. Tax-
Exempt", "For Use Outside U.S." or similar wording; or (B) does not
comply with (i) all requirements imposed by or pursuant to federal law
regarding warnings and other information on packages of cigarettes
manufactured, packaged or imported for sale, distribution or use in the
United States, including but not limited to the precise warning labels
specified in the federal cigarette labeling and advertising act, 15 U.S.C. §
1333; and (ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26
U.S.C. § 5754 or any other federal law, or federal regulations
implementing such laws;

(3) any cigarettes that such person otherwise knows or has reason to
know the manufacturer did not intend to be sold, distributed or used in the
United States; or

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

(w) To alter the package of any cigarettes, prior to sale or distribution
to the ultimate consumer, so as to remove, conceal or obscure:
(1) Any statement, label, stamp, sticker or notice described in
subsection (v); or
(2) any health warning that is not specified in, or does not conform
with, the requirements of, the federal cigarette labeling and advertising act,

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

(y) To sell or transfer any tax indicia to any person or entity other
than the director.

(z) To buy any cigarettes or tobacco products for any person under
18 years of age.

Sec. 14. K.S.A. 2011 Supp. 79-3322 is hereby amended to read as
follows: 79-3322. (a) Any person who violates any of the provisions of the
Kansas cigarette and tobacco products act, except as otherwise provided in
this act, shall be guilty of a misdemeanor and upon conviction shall be
punished by a fine of not more than $1,000 or imprisonment for not more
than one year, or by both. In addition thereto any person found liable for
any license fee or tax imposed under the provisions of this act shall be
personally liable for such license fee or tax plus a penalty in an amount
equal to 100% thereof.

(b) (1) It is a class B person misdemeanor punishable by a minimum
fine of $200 for any person to: (A) Sell, give or furnish any cigarettes or
tobacco products to any person under 18 years of age; or (B) buy any
cigarettes or tobacco products for any person under 18 years of age.

(2) It shall be a defense to a prosecution under this subsection if: (A)
The defendant is a licensed retail dealer, or employee thereof, or a person
authorized by law to distribute samples; (B) the defendant sold, furnished
or distributed the cigarettes or tobacco products to the person under 18
years of age with reasonable cause to believe the person was of legal age
to purchase or receive cigarettes or tobacco products; and (C) to purchase
or receive the cigarettes or tobacco products, the person under 18 years of
age exhibited to the defendant a driver's license, Kansas nondriver's
identification card or other official or apparently official document
containing a photograph of the person and purporting to establish that the
person was of legal age to purchase or receive cigarettes or tobacco products.

(3) It shall be a defense to a prosecution under this subsection if: (A) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, and amendments thereto, that the person was 18 or more years of age.

(4) For purposes of this subsection the person who violates this subsection shall be the individual directly selling, furnishing or distributing the cigarettes or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(c) Violation of subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, is a cigarette or tobacco infraction for which the fine is $25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

(d) Any agent, employees or others who aid, abet or otherwise participate in any way in the violation of the Kansas cigarette and tobacco products act or in any of the offenses hereunder punishable shall be guilty and punished as principals to the same extent as any person violating this act.

Sec. 15. K.S.A. 2011 Supp. 79-3333 is hereby amended to read as follows: 79-3333. (a) Each person engaged in the business of selling cigarettes to persons who reside in Kansas shall obtain a license as provided by the Kansas cigarette and tobacco products act.

(b) All cigarettes sold to persons who reside in Kansas shall have a valid Kansas cigarette tax stamp affixed to each package.

(c) All retail cigarette dealers, whether located in or outside the state of Kansas, shall have a registration certificate as provided in K.S.A. 79-3608, and amendments thereto, and be subject to the provisions of the Kansas retailers' sales tax act. Each licensed retail cigarette dealer selling cigarettes over the internet, telephone or other mail order transaction shall file all sales tax returns and remit taxes owed pursuant to K.S.A. 79-3607, and amendments thereto.

(d) All sales transactions over the internet, telephone or other mail order transaction shall not be completed, unless, before each delivery of cigarettes is made, whether through the mail, through a transportation company or any other delivery system, the seller has obtained from the purchaser a certification that includes a reliable confirmation that the purchaser is at least the legal minimum age to purchase cigarettes; that the cigarettes purchased are not intended for consumption by an individual.
who is younger than the legal minimum age to purchase cigarettes; and a
written statement signed by the purchaser that certifies the purchaser's
address and that the purchaser is at least the minimum legal age to
purchase cigarettes. Such statement shall also confirm: (1) That the
purchaser understands that signing another person's name to such
certification is illegal; (2) that the sale of cigarettes to individuals under
the legal minimum purchase age is illegal; and (3) that the purchase of
cigarettes by individuals under the legal minimum purchase age is illegal
under the laws of Kansas.

(e) The retail cigarette dealer shall verify the information contained in
the certification provided by the purchaser against a commercially
available database of governmental records, or obtain a photocopy or other
image of the valid, government-issued identification stating the date of
birth or age of the purchaser.

(f) All invoices, bills of lading, sales receipts and any other document
related to the sale of cigarettes through the internet or other mail order
transaction shall contain the current, valid retailer Kansas cigarette dealer
license number, Kansas sales tax registration number, business name and
address of the seller.

(g) All packages of cigarettes shipped from a cigarette dealer to
purchasers who reside in Kansas shall clearly print the package with the
word "CIGARETTES" on all sides of the package. In addition, such
package shall contain an externally visible and easily legible notice located
on the same side of the package as the address to which the package is
delivered as follows:

"IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM
A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU
RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL
LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX
COLLECTION AGENCY, INCLUDING YOUR NAME AND
ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL
APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

(h) The provisions of this section shall not apply to tobacco products,
as defined in K.S.A. 79-3301, and amendments thereto.

(i) (h) Violation of the provisions of subsection (a), (d) or (e) is a
severity level 8, nonperson felony. Violation of any provision of this
section other than the provisions of subsection (a), (d) or (e) is a
misdemeanor and upon conviction shall be punishable by a fine of not
more than $1,000 or imprisonment for not more than one year, or both.

(i) (i) The provisions of this section shall be part of and supplemental
to the Kansas cigarette and tobacco products act.

Sec. 16. K.S.A. 79-3371 is hereby amended to read as follows: 79-
3371. (a) A tax is hereby imposed upon the privilege of selling or
dealing in tobacco products, other than little cigars, in this state by any
person engaged in business as a distributor thereof, at the rate of ten-
percent (10%) 30% of the wholesale sales price of such tobacco products.

**Such tax** A tax is hereby imposed upon the privilege of selling or dealing
in little cigars in this state by any person engaged in business as a
distributor thereof. The tax on little cigars shall be at the same rate as is
imposed on cigarettes under the provisions of K.S.A. 79-3310, and
amendments thereto. Taxes imposed under this section shall be imposed at
the time the distributor (a) : (1) Brings or causes to be brought into this
state from without the state tobacco products for sale; (b) (2) makes,
manufactures, or fabricates tobacco products in this state for sale in this
state; or (c) (3) ships or transports tobacco products to retailers in this state
to be sold by those retailers. For any purchaser of tobacco products on
which such tax has not been paid by the distributor, the director may
proceed directly against such purchaser to collect the full amount of tax
due. A purchaser of tobacco products includes a consumer as defined in
K.S.A. 79-3301, and amendments thereto.

(b) (1) Upon the enactment of any legislative act increasing the tax
rate imposed on cigarettes sold, distributed or given away as set forth in
K.S.A. 79-3310, and amendments thereto, the tax rate imposed under
subsection (a) on the privilege of selling or dealing in tobacco products,
other than little cigars, shall be increased by an amount such that the ratio
that the tax rate imposed under subsection (a), prior to the enactment of
such legislative act, bears to such new tax rate is the same as the ratio that
the tax rate imposed under K.S.A. 79-3310, and amendments thereto, prior
to the enactment of such legislative act, bears to the new tax rate imposed
under K.S.A. 79-3310, and amendments thereto, upon enactment of such
legislative act. The new tax rate as determined pursuant to this subsection
shall take effect and be in force from and after the date on which the
increase in the tax rate imposed under K.S.A. 79-3310, and amendments
thereto, becomes effective.

(2) The director of taxation shall provide notice of any increase in the
tax rate imposed under subsection (a) made pursuant to this subsection to
all distributors and retail dealers as soon as reasonably practicable.
Failure of a distributor or retail dealer to receive such notice or failure of
the director to provide such notice to a distributor or retail dealer shall
not relieve the distributor or retail dealer of its obligation to collect the
tax or otherwise comply with such legislative, rule or regulatory changes.

Sec. 17. K.S.A. 79-3373 is hereby amended to read as follows: 79-
3373. (a) No person shall engage in the business of selling or dealing in
tobacco products as a distributor or as a retail dealer in this state without
first having received a license from the director. A separate application,
license and fee is required for each retail dealer establishment owned or
operated by a retail dealer. Every application for such a license shall be made on a form prescribed by the director and shall state the name and address of the applicant; if the applicant is a firm, partnership or association, the name and address of each of its members; if the applicant is a corporation, the name and address of each of its officers; the address of its principal place of business; the place where the business to be licensed is to be conducted; and such other information as the director may require for the purpose of the administration of this act.

(b) A person outside this state who ships or transports tobacco products to retailers a retail dealer in this state, to be sold by those retailers, may apply for a retail dealer license as a distributor, be granted such a license by the director and thereafter. Prior to approval by the director, the applicant shall submit with the application proof that the applicant has appointed the secretary of state as the applicant's agent for service of process relating to any matter or issue arising under this act. Upon approval, the director shall issue a license and the distributor shall be subject to all the provisions of this act and entitled to act as a licensed distributor if the person files with the application proof that the person has appointed the secretary of state as the person's agent for service of process relating to any matter or issue arising under this act.

c) A retail dealer selling tobacco products shall be registered and licensed in the same manner as a retail dealer selling cigarettes. A retail dealer selling tobacco products shall be licensed as provided in subsection (a)(1) of K.S.A. 79-3304, and amendments thereto, and shall be subject to the same requirements as a licensed retail dealer selling cigarettes. A retail dealer who has satisfied the requirements for and has been issued a license by the director for selling cigarettes shall be considered registered for the purpose of selling tobacco products.

d) A retail dealer selling tobacco products shall purchase tobacco products only from a Kansas licensed distributor.

Sec. 18. K.S.A. 79-3374 is hereby amended to read as follows: 79-3374. Each application for a distributor's license shall be accompanied by a fee of twenty-five dollars ($25). The application shall also be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties and accrued interest which may be due the state. The bond shall be in an amount to be determined by the director and in a form prescribed by the director. Whenever it is the opinion of the director that the bond given by a licensee is inadequate in amount to fully protect the state, he or she the director shall require an additional bond in such amount as he or she the director deems sufficient. A separate application for a license shall be made for each place of business at which a distributor
proposes to engage in business as such under this act, but an applicant may provide one bond in an amount determined by the director for all applications made by him or her such applicant. A distributor applying for a license between June thirtieth 30 and December thirty-first 31 of any year shall be required to pay only one-half of the license fee provided for herein.

Sec. 19. K.S.A. 79-3375 is hereby amended to read as follows: 79-3375. Upon receipt of an application in proper form and payment of the license fee required hereunder, the director shall, unless otherwise provided by this act, issue to applicant a license hereunder, which license shall permit the applicant to whom it is issued to engage in business as a distributor at the place of business shown on the license. Each license shall expire on December thirty-first 31 following its date of issue unless sooner revoked by the director, or unless the business for which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the director. Each license shall be prominently displayed on the premises covered by the license. No license shall be transferable to any other person.

Sec. 20. K.S.A. 79-3377 is hereby amended to read as follows: 79-3377. (a) Each distributor shall keep in each licensed place of business complete and accurate records for that place of business, including itemized invoices of: (1) Tobacco products held, purchased, manufactured, brought in or caused to be brought in from outside the state or shipped or transported to retailers a retail dealer in this state; and (2) all sales of tobacco products made, except sales to an ultimate consumer. Such records shall show the names and addresses of purchasers and other pertinent papers and documents relating to the purchase, sale or disposition of tobacco products. When a licensed distributor sells tobacco products exclusively to ultimate consumers at the addresses given in the license, no invoice of those sales shall be required, but to a retail dealer, itemized invoices shall be made of all tobacco products transferred sold to other retail outlets even if owned or controlled by that licensed distributor. All books, records and other papers and documents required by this subsection to be kept shall be preserved for a period of at least three years after the date of the documents or the date of the entries thereof appearing in the records, unless the director, in writing, authorizes their destruction or disposal at an earlier date.

(b) At any time during usual business hours duly authorized agents or employees of the director may enter any place of business of a distributor and inspect the premises, the records required to be kept under this act and the tobacco products contained therein, to determine whether or not all the provisions of this act are being fully complied with. Refusal to permit such inspection by a duly authorized agent or employee of the director shall be
grounds for revocation of the license.

(c) Each person who sells tobacco products to persons other than an ultimate consumer shall render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale and all prices and discounts. Such person shall preserve legible copies of all such invoices for three years after the date of sale.

(d) Each distributor shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of purchase. The distributor shall preserve a legible copy of each such invoice for three years after the date of purchase. Invoices shall be available for inspection by authorized agents or employees of the director at the distributor's place of business.

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

Sec. 22. K.S.A. 79-3379 is hereby amended to read as follows: 79-3379. Where tobacco products, on which the tax imposed by this act has been reported and paid, or which have been reported for the purpose of determining and imposing the tax for the privilege of doing business under the provisions of this act and on which the tax has been paid, are sold, shipped or transported by the distributor to retailers, distributors or
ultimate consumers without outside the state, or are returned to the manufacturer by the distributor, or destroyed by the distributor, a refund or credit of such tax shall be made to the distributor. For the purpose of making such credit or refund, or any combination thereof, the director may issue a tax credit memoranda or may prepare a voucher showing the net amount of such refund due and the director of accounts and reports shall draw a warrant upon the state treasurer for the amount of any such refund certified by the director.


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