

SENATE BILL No. 233

By Committee on Assessment and Taxation

2-16

1 AN ACT concerning taxation; relating to rates of taxation; cigarettes,
2 tobacco products and alcoholic beverages; amending K.S.A. 79-3371
3 and 79-3378 and K.S.A. 2014 Supp. 79-3310, 79-3310c, 79-3311, 79-
4 3312 and 79-4101 and repealing the existing sections.

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

7 New Section 1. (a) On or before July 31, 2015, each distributor
8 having a place of business in this state shall file a report with the director
9 in such form as the director may prescribe, showing the tobacco products
10 on hand at 12:01 a.m. on July 1, 2015. A tax at a rate equal to 15% of the
11 wholesale price of such tobacco products is hereby imposed upon such
12 tobacco products and shall be due and payable on or before July 31, 2015.
13 The tax upon such tobacco products shall be imposed only once under this
14 act. The director shall remit all moneys collected pursuant to this section to
15 the state treasurer who shall credit the entire amount thereof to the state
16 general fund.

17 (b) This section shall be part of and supplemental to the Kansas
18 cigarette and tobacco products act.

19 Sec. 2. K.S.A. 2014 Supp. 79-3310 is hereby amended to read as
20 follows: 79-3310. There is imposed a tax upon all cigarettes sold,
21 distributed or given away within the state of Kansas. ~~On and after July 1,~~
22 ~~2002, and before January 1, 2003, the rate of such tax shall be \$.70 on~~
23 ~~each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes,~~
24 ~~as the case requires. On and after January 1, 2003~~ July 1, 2015, the rate of
25 such tax shall be ~~\$.79~~ \$2.29 on each 20 cigarettes or fractional part thereof
26 or ~~\$.99~~ \$2.86 on each 25 cigarettes, as the case requires. Such tax shall be
27 collected and paid to the director as provided in this act. Such tax shall be
28 paid only once and shall be paid by the wholesale dealer first receiving the
29 cigarettes as herein provided.

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

34 Sec. 3. K.S.A. 2014 Supp. 79-3310c is hereby amended to read as
35 follows: 79-3310c. ~~(1)~~ On or before July ~~30, 2002~~ 31, 2015, each
36 wholesale dealer, retail dealer and vending machine operator shall file a

1 report with the director in such form as the director may prescribe showing
2 cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on
3 July 1, ~~2002~~ 2015. A tax of ~~\$.46~~ \$1.50 on each 20 cigarettes or fractional
4 part thereof or ~~\$.575~~ \$1.87 on each 25 cigarettes, as the case requires and
5 ~~\$.46 or \$.575~~ \$1.50 or \$1.87, as the case requires upon all tax stamps and
6 all meter imprints purchased from the director and not affixed to cigarettes
7 prior to July 1, ~~2002~~ 2015, is hereby imposed and shall be due and payable
8 in equal installments on or before July 30, ~~2002~~, on or before September
9 30, ~~2002~~, and on or before December 30, ~~2002~~ 31, 2015. The tax imposed
10 upon such cigarettes, tax stamps and meter imprints shall be imposed only
11 once under this act. The director shall remit all moneys collected pursuant
12 to this section to the state treasurer who shall credit the entire amount
13 thereof to the state general fund.

14 ~~(2) On or before January 30, 2003, each wholesale dealer, retail~~
15 ~~dealer and vending machine operator shall file a report with the director in~~
16 ~~such form as the director may prescribe showing cigarettes, cigarette~~
17 ~~stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A tax~~
18 ~~of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on each 25~~
19 ~~cigarettes, as the case requires and \$.09 or \$.115, as the case requires upon~~
20 ~~all tax stamps and all meter imprints purchased from the director and not~~
21 ~~affixed to cigarettes prior to January 1, 2003, is hereby imposed and shall~~
22 ~~be due and payable in equal installments on or before January 30, 2003, on~~
23 ~~or before March 30, 2003, and on or before June 30, 2003. The tax~~
24 ~~imposed upon such cigarettes, tax stamps and meter imprints shall be~~
25 ~~imposed only once under this act. The director shall remit all moneys~~
26 ~~collected pursuant to this section to the state treasurer who shall credit the~~
27 ~~entire amount thereof to the state general fund.~~

28 Sec. 4. K.S.A. 2014 Supp. 79-3311 is hereby amended to read as
29 follows: 79-3311. The director shall design and designate indicia of tax
30 payment to be affixed to each package of cigarettes as provided by this act.
31 The director shall sell water applied stamps only to licensed wholesale
32 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the
33 heat process shall be sold only in amounts of 30,000 or multiples thereof,
34 except that such stamps which are suitable for packages containing 25
35 cigarettes each shall be sold in amounts prescribed by the director. Meter
36 imprints shall be sold only in amounts of 10,000 or multiples thereof.
37 Water applied stamps in amounts of 10,000 or multiples thereof and
38 stamps applied by the heat process and meter imprints shall be supplied to
39 wholesale dealers at a discount of ~~90% on and after July 1, 2002, and~~
40 ~~before January 1, 2003, and 80%~~ 0.27% on and after July 1, 2015, and
41 thereafter from the face value thereof, and shall be deducted at the time of
42 purchase or from the remittance therefor as hereinafter provided. Any
43 wholesale cigarette dealer who shall file with the director a bond, of

1 acceptable form, payable to the state of Kansas with a corporate surety
2 authorized to do business in Kansas, shall be permitted to purchase stamps,
3 and remit therefor to the director within 30 days after each such purchase,
4 up to a maximum outstanding at any one time of 85% of the amount of the
5 bond. Failure on the part of any wholesale dealer to remit as herein
6 specified shall be cause for forfeiture of such dealer's bond. All revenue
7 received from the sale of such stamps or meter imprints shall be remitted
8 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
9 and amendments thereto. Upon receipt of each such remittance, the state
10 treasurer shall deposit the entire amount in the state treasury. The state
11 treasurer shall first credit such amount as the director shall order to the
12 cigarette tax refund fund and shall credit the remaining balance to the state
13 general fund. A refund fund designated the cigarette tax refund fund not to
14 exceed \$10,000 at any time shall be set apart and maintained by the
15 director from taxes collected under this act and held by the state treasurer
16 for prompt payment of all refunds authorized by this act. Such cigarette tax
17 refund fund shall be in such amount as the director shall determine is
18 necessary to meet current refunding requirements under this act.

19 The wholesale cigarette dealer shall affix to each package of cigarettes
20 stamps or tax meter imprints required by this act prior to the sale of
21 cigarettes to any person, by such dealer or such dealer's agent or agents,
22 within the state of Kansas. The director is empowered to authorize
23 wholesale dealers to affix revenue tax meter imprints upon original
24 packages of cigarettes and is charged with the duty of regulating the use of
25 tax meters to secure payment of the proper taxes. No wholesale dealer
26 shall affix revenue tax meter imprints to original packages of cigarettes
27 without first having obtained permission from the director to employ this
28 method of affixation. If the director approves the wholesale dealer's
29 application for permission to affix revenue tax meter imprints to original
30 packages of cigarettes, the director shall require such dealer to file a
31 suitable bond payable to the state of Kansas executed by a corporate surety
32 authorized to do business in Kansas. The director may, to assure the proper
33 collection of taxes imposed by the act, revoke or suspend the privilege of
34 imprinting tax meter imprints upon original packages of cigarettes. All
35 meters shall be under the direct control of the director, and all transfer
36 assignments or anything pertaining thereto must first be authorized by the
37 director. All inks used in the stamping of cigarettes must be of a special
38 type devised for use in connection with the machine employed and
39 approved by the director. All repairs to the meter are strictly prohibited
40 except by a duly authorized representative of the director. Requests for
41 service shall be directed to the director. Meter machine ink imprints on all
42 packages shall be clear and legible. If a wholesale dealer continuously
43 issues illegible cigarette tax meter imprints, it shall be considered

1 sufficient cause for revocation of such dealer's permit to use a cigarette tax
2 meter.

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

7 Sec. 5. K.S.A. 2014 Supp. 79-3312 is hereby amended to read as
8 follows: 79-3312. The director shall redeem any unused stamps or meter
9 imprints that any wholesale dealer presents for redemption within six
10 months after the purchase thereof, at the face value less ~~90% on and after~~
11 ~~July 1, 2002, and before January 1, 2003, and .80% thereafter~~ 0.27%
12 thereof if such stamps or meter imprints have been purchased from the
13 director. The director shall prepare a voucher showing the net amount of
14 such refund due, and the director of accounts and reports shall draw a
15 warrant on the state treasurer for the same. Wholesale dealers shall be
16 entitled to a refund of the tax paid on cigarettes which have become unfit
17 for sale upon proof thereof less ~~90% on and after July 1, 2002, and before~~
18 ~~January 1, 2003, and .80% thereafter~~ 0.27% of such tax.

19 Sec. 6. K.S.A. 79-3371 is hereby amended to read as follows: 79-
20 3371. A tax is hereby imposed upon the privilege of selling or dealing in
21 tobacco products in this state by any person engaged in business as a
22 distributor thereof, at the rate of ~~ten percent (10%)~~ 25% of the wholesale
23 sales price of such tobacco products. Such tax shall be imposed at the time
24 the distributor: (a) Brings or causes to be brought into this state from
25 without the state tobacco products for sale; (b) makes, manufactures, or
26 fabricates tobacco products in this state for sale in this state; or (c) ships or
27 transports tobacco products to retailers in this state to be sold by those
28 retailers.

29 Sec. 7. K.S.A. 79-3378 is hereby amended to read as follows: 79-
30 3378. On or before the ~~twentieth~~ 20th day of each calendar month every
31 distributor with a place of business in this state shall file a return with the
32 director showing the quantity and wholesale sales price of each tobacco
33 product: (1) Brought, or caused to be brought, into this state for sale; and
34 (2) made, manufactured, or fabricated in this state for sale in this state
35 during the preceding calendar month. Every licensed distributor outside
36 this state shall in like manner file a return showing the quantity and
37 wholesale sales price of each tobacco product shipped or transported to
38 retailers in this state to be sold by those retailers, during the preceding
39 calendar month. Returns shall be made upon forms furnished and
40 prescribed by the director. Each return shall be accompanied by a
41 remittance for the full tax liability shown therein, less ~~four percent (4%)~~
42 1.6% of such liability as compensation to reimburse the distributor for ~~his~~
43 ~~or her~~ the distributor's expenses incurred in the administration of this act.

1 As soon as practicable after any return is filed, the director shall examine
2 the return. If the director finds that, in ~~his or her~~ *the director's* judgment,
3 the return is incorrect and any amount of tax is due from the distributor
4 and unpaid, ~~he or she~~ *the director* shall notify the distributor of the
5 deficiency. If a deficiency disclosed by the director's examination cannot
6 be allocated by ~~him~~ *the director* to a particular month or months, ~~he or she~~
7 *the director* may nevertheless notify the distributor that a deficiency exists
8 and state the amount of tax due. Such notice shall be given to the
9 distributor by registered or certified mail.

10 Sec. 8. K.S.A. 2014 Supp. 79-4101 is hereby amended to read as
11 follows: 79-4101. (a) For the purpose of providing revenue which may be
12 used by the state, counties and cities in the enforcement of the provisions
13 of this act, from and after the effective date of this act, for the privilege of
14 engaging in the business of selling alcoholic liquor by retailers,
15 microbreweries, microdistilleries or farm wineries to consumers in this
16 state or selling alcoholic liquor or cereal malt beverage by distributors to
17 clubs, drinking establishments, public venues or caterers in this state, there
18 is hereby levied and there shall be collected and paid a tax at the rate of
19 ~~8%~~ *12%* upon the gross receipts received from: (1) The sale of alcoholic
20 liquor by retailers, microbreweries, microdistilleries or farm wineries to
21 consumers within this state; and (2) the sale of alcoholic liquor or cereal
22 malt beverage by distributors to clubs, drinking establishments, public
23 venues or caterers in this state.

24 (b) The tax imposed by this section shall be in addition to the license
25 fee imposed on distributors, retailers, microbreweries, microdistilleries and
26 farm wineries by K.S.A. 41-310, and amendments thereto.

27 Sec. 9. K.S.A. 79-3371 and 79-3378 and K.S.A. 2014 Supp. 79-3310,
28 79-3310c, 79-3311, 79-3312 and 79-4101 are hereby repealed.

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