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

New Section 1. Notwithstanding any other provision in this act, any person who purchases, possesses, uses or consumes more than 400 cigarettes in this state without the required tax indicia being affixed as herein provided shall be liable for the tax imposed by this act.

New Sec. 2. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this act:
(a) "Conviction" includes being convicted of a violation of this act or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this act;
(b) "conviction" includes being convicted of a violation of a law of another state or the United States, which prohibits the acts that this act prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law;
(c) only convictions occurring in the immediately preceding five years beginning on July 1, 2016, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense, whichever is applicable; and
(d) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

Sec. 3. K.S.A. 2015 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) "Act" means the Kansas cigarette and tobacco products act.

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

(c) "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.

(d) "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.

(e) "Conspicuous location or place" means a location or place available to the general public.

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

(g) "Contracting entity" means any public or private person, firm or entity that has entered into a contract with the secretary of revenue to provide services.

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

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

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

(k) "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.

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

(m) "Electronic cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

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

(o) "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.
"Licensee" means any person holding a current license issued pursuant to this act.

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

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

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

(1) "Package" means 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(u), (v) and (w), and amendments thereto, "package" means the same as provided in 15 U.S.C. § 1332(4).

"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.

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

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

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

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

"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.

"Stamps" means tax indicia applied either by means of water-applied gummed paper or heat process, pressure or any other process approved by the director.

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

"Tobacco products" means cigars, cheroots, stogies, periques;
granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings 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. Tobacco products do not include cigarettes.

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

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

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

(aa)(ff) "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)(gg) "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.

(ee)(hh) "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(d).

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

(ff) "Electronic cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

79-3398, section 1 and section 2, and amendments thereto, 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. 2015 Supp. 79-3303 is hereby amended to read as
follows: 79-3303. (a) Each person engaged in the business of selling
cigarettes or electronic 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 or contracting entity
of the division, where the division has determined disclosure of such
information is essential for completion of the contract and has taken
appropriate steps to preserve confidentiality, except that such information
may be divulged to any law enforcement officer for use in the officer's
official duties. Any officer or employee or contracting entity 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.

(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
distributor 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,
thief 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. The director shall not issue or renew a license to any person
who:

(1) Has been convicted of a felony under the laws of this state or any
other state or the United States;

(2) is not current in the payment of any tax or fine under this act;

(3) has had a cigarette or tobacco license revoked in this state or any
other state;

(4) is not at least 18 years of age;

(5) intends to carry on the business as an agent of another;

(6) at the time of application for renewal of any license issued under
this act, would not be eligible for the license upon first application;

(7) does not own the premises for which a license is sought, or does
not, at the time of the application, have a written lease;
(8) has been convicted of a crime involving any tax under this act;
(9) is a corporation in which any officer, manager or director thereof,
or any stockholder owning in the aggregate more than 5% of the common
or preferred stock of such corporation, has been an officer, manager or
director or stockholder owning in the aggregate more than 5% of the
common or preferred stock, of a corporation which:
(A) Has had a license revoked under this act;
(B) has been convicted of a tax crime under this act; or
(C) would not qualify as a person under this act; or
(10) is a limited liability company in which any officer, manager or
director thereof, or any member owning in the aggregate more than 5% of
the limited liability company, has been an officer, manager or director or
stockholder owning in the aggregate more than 5% of the common or
preferred stock, of a corporation which:
(A) Has had a license revoked under this act;
(B) has been convicted of a taxcrime under this act; or
(C) would not qualify as a person under this act.
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 of any person
licensed under this act whenever the director has reason to believe such
person has violated any provision of this act in any of the following ways:
(1) Has been convicted of a felony under the laws of this state or any
other state or the United States;
(2) is not current in the payment of any tax or fine under this act;
(3) has had a cigarette or tobacco license revoked in this state or any
other state;
(4) is not at least 18 years of age;
(5) intends to carry on the business as an agent of another;
(6) at the time of application for renewal of any license issued under
this act, would not be eligible for the license upon first application;
(7) does not own the premises for which a license is sought, or does not, at the time of the application, have a written lease;
(8) has been convicted of a crime involving any tax under this act;
(9) in the case of a corporation, any officer, manager or director
thereof, or any stockholder owning in the aggregate more than 5% of the
common or preferred stock of such corporation, has been an officer,
manager or director or stockholder owning in the aggregate more than
5% of the common or preferred stock, of a corporation which:
(A) Has had a license revoked under this act;
(B) has been convicted of a tax crime under this act; or
(C) would not qualify as a person under this act; or
(10) in the case of a limited liability company, any officer, manager
or director thereof; or any member owning in the aggregate more than 5% 
of the limited liability company, has been an officer, manager or director
or stockholder owning in the aggregate more than 5% of the common or
preferred stock, of a corporation which:
    (A) Has had a license revoked under this act;
    (B) has been convicted of a tax crime under this act; or
    (C) would not qualify as a person under this act.
(b) 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 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.
(b)(c) 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 filing a bond payable to the state of Kansas as
required by the director, payment of any fine, 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. 2015 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 in good standing with the director at the time of purchase at a discount of 0.55% on and after July 1, 2015, and 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 stamps upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters stamps to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints stamps 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 stamps 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 affixing tax stamps 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.

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. 9. K.S.A. 2015 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 0.55% thereof if
such stamps or meter imprints have been purchased from the director and
are whole, complete stamps. 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 0.55% of such tax.

Sec. 10. K.S.A. 2015 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, except
that an outlet, or fuel outlet or fuel center, owned by the same entity where
separate invoices are not required if cigarettes are sold from a fuel outlet
by the same entity.

(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 filed electronically in the manner prescribed by the director and shall contain such other information as the director may require.

(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. 11. K.S.A. 2015 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, to possess, sell, transport, import, distribute, wholesale or manufacture more than 200,000 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.

(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, electronic 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, electronic cigarettes or tobacco products.

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

(o) To sell cigarettes to a retailer or at retail, or to transport or allow cigarettes to be transported into this state 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, electronic 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, electronic cigarettes or tobacco products by means of a vending machine, including vending machines that sell
packaged, single cigarettes, 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; or

(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
imperable 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, electronic 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;

or

(3) a self-service display located in a facility where the retailer
ensures that no person younger than 18 years of age is present or
permitted to enter at any time.

(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 possess, sell, transport, import, distribute, wholesale or
manufacture cigarettes or tobacco products in violation of K.S.A. 50-6a01
et seq., and amendments thereto.

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

Sec. 12. K.S.A. 2015 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 violation of K.S.A. 79-3321 (a), (c), (d), (f),
(h), (i), (j), (v), (w), (x) or (y), and amendments thereto, is a:

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

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

(3) level 6, nonperson felony for a third and all subsequent
violations, and the offender shall be fined $100,000 upon a third and all
subsequent convictions.

(b) Except as provided in subsections (a), (c), or (d), a violation of
K.S.A. 79-3321, and amendments thereto, is a class B misdemeanor and
upon conviction, an offender shall be punished by a fine of fined not less
than $500 nor more than $1,000 or

imprisoned for not more
than one year, or by both for each separate violation. 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)(c) (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.

(e)(d) Violation of subsection (m) or (n) of K.S.A. 79-3321(m) or (n), 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)(e) 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.

(f) The secretary of revenue or the secretary's authorized agent, may
refer such evidence as may be available concerning violations of this act or any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor’s discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary’s authorized agent, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the secretary or secretary’s authorized agent acts as a special prosecutor, the secretary may pay extradition and witness expenses associated with the case.

Sec. 13. K.S.A. 79-3323 is hereby amended to read as follows: 79-3323. (a) The following are declared to be common nuisances and contraband:

(1) All packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment as required in this act and all devices for vending cigarettes in which unstamped packages are found;

(2) All packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment and sold as required by any compact between:

(A) the governor and the Prairie Band Potawatomi Nation and approved by the legislature; or (B) the governor and the Iowa Tribe of Kansas and Nebraska and approved by the legislature;

(4) all cigarettes or tobacco products in the possession of a minor;

and

(4) cigarettes or tobacco products in violation of K.S.A. 50-6a01 et seq., and amendments thereto; and

(3) all property, other than including vehicles, used in the retail sale, transportation, distribution, importation, wholesaling or manufacture of unstamped packages of cigarettes.

Cigarettes in vending machines and exposed to view not showing indicia of tax payment required by this act to be visible from the outside of the vending machine shall be presumed to be unstamped.

(b) Any cigarettes or property constituting a common nuisance and contraband as provided by this section may be seized by the director or the
director's authorized agent or any duly constituted peace officer with or
without process or warrant and shall be subject to forfeiture as provided in
this act. The party making the seizure shall deliver to the owner of the
property and to the person or persons found in possession of the property a
receipt stating from whom the property was seized, the place of seizure
and a description and the brand of the property seized. A duplicate of the
receipt shall be filed in the office of the director and shall be open for
public inspection.

Sec. 14. K.S.A. 79-3324a is hereby amended to read as follows: 79-
3324a. (a) All of the cigarettes and property seized by the director or the
director's authorized agent shall first be listed and appraised by the
person making the seizure, and turned over to the director and a receipt
taken. The person making the seizure shall immediately make and file a
written report showing the name of the person making the seizure, the
place where, and the person from whom the property was seized, and
inventory and appraisal thereof, at the usual and ordinary wholesale price
of the articles received by the director of taxation. The director shall
institute forfeiture proceedings within the department of revenue in the
name of the state of Kansas, as plaintiff, and in the name of the owner or
person in possession, as defendant, if known, and if unknown, in the name
of the property seized. The director shall issue notice to the owner or
person in whose possession such property was found, directing such
person to answer within 10 days. The forfeiture hearing under this
subsection shall be conducted in accordance with the provisions of the
Kansas administrative procedure act. If the property is declared forfeited
and ordered sold, notice of the sale shall be posted in the official
newspaper of Shawnee county, Kansas, not less than 10 days before the
date of the sale, except that cigarettes shall be withheld from public sale
and shall be sold by the director of taxation to the manufacturer of such
cigarettes or to a licensed distributor and the purchase price shall be paid
to the director of taxation and treated as cigarette tax collected. After
deducting all costs incurred in the seizure, forfeiture and sale of all
contraband, including cigarettes and property seized by the director or by
the director's authorized agent, pursuant to this subsection, all such
proceeds 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 to the credit of the cigarette and tobacco products
regulation fund created by K.S.A. 79-3391, and amendments thereto, and
such proceeds shall be used exclusively for cigarette and tobacco products
regulation and enforcement, and not for any other purpose.

(b) All of the cigarettes and property seized by officers of the state of
Kansas, other than the director or the director's authorized agent, shall
first be listed and appraised by the officer making the seizure, and turned
over to the county sheriff of the county in which the seizure is made and a
receipt therefor taken. The person making the seizure shall immediately
make and file a written report thereof showing the name of the person
making the seizure, the place where, and the person from whom the
property was seized, and inventory and appraisement appraisal thereof, at
the usual and ordinary wholesale price of the articles received to the
director of taxation. The county or district attorney of the county in which
the seizures are made may, at the request of the director, file in the district
court forfeiture proceedings in the name of the state of Kansas, as plaintiff,
and in the name of the owner or person in possession, as defendant, if
known, and if unknown in the name of the property seized. The clerk of
the court shall issue summons to the owner or person in whose possession
such property was found, directing him or her such person to answer
within ten (10) days. If the property is declared forfeited and ordered sold,
notice of the sale shall be posted in five (5) public places in the county not
less than ten (10) days before the date of the sale, except that cigarettes
shall be withheld from public sale and shall be sold by the director of
taxation to the manufacturer of such cigarettes or to a licensed distributor
and the purchase price shall be paid to the director of taxation and treated
as cigarette tax collected. The proceeds of any public sale shall be
deposited with the clerk of the court, who shall, after deducting costs,
including the costs of the sale, pay the balance to the treasurer of the
county wherein the sale is constructed. Said The treasurer shall credit
the entire amount thereof to the county general fund.

(b)(c) The seizure and sale of the cigarettes shall not relieve the
person from whom the cigarettes were seized from any prosecution on the
payment of any penalties provided for under the provisions of K.S.A. 79-
3301 et seq., and amendments thereto; nor shall it relieve the purchaser
thereof from any payment of the regular cigarette tax and the placing of
proper stamps thereon before making any sale of the cigarettes or the
personal consumption of the same.

d) The forfeiture provisions of this act shall only apply to persons
having possession of or transporting cigarettes with intent to barter, sell or
give away the same. The possession of cigarettes in any quantity of more
than two (2) five cartons, twenty (20) 50 packages or four hundred (400)
1,000 cigarettes, not bearing indicia of tax payment as required by the
provisions of K.S.A. 79-3301 et seq., and amendments thereto, shall be
prima facie evidence of intent to barter, sell or give away the cigarettes in
violation of the provisions of K.S.A. 79-3301 et seq., and amendments
thereto.

Sec. 15. K.S.A. 2015 Supp. 79-3333 is hereby amended to read as
follows: 79-3333. (a) Each person engaged in the business of selling
cigarettes or tobacco products 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 or tobacco product 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 licensee or other person selling cigarettes or tobacco
products 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 or tobacco products 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 or tobacco products; that the cigarettes or tobacco
products purchased are not intended for consumption by an individual who
is younger than the legal minimum age to purchase cigarettes or tobacco
products; 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 or tobacco products. 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 or
tobacco products to individuals under the legal minimum purchase age is
illegal; and (3) that the purchase of cigarettes or tobacco products by
individuals under the legal minimum purchase age is illegal under the laws
of Kansas.

(e) The retail cigarette or tobacco products 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 or tobacco products through the internet or
other mail order transaction shall contain the current, valid retailer Kansas
cigarette or tobacco products 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. Except as otherwise provided by this act, a violation of subsection (a), (d) or (e) is a:

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

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

(3) level 6, nonperson felony for a third and all subsequent violations, and the offender shall be fined $100,000 upon a third and all subsequent convictions.

(i) Violation of the provisions of subsection (a), (d) or (e) is a severity level 8, nonperson felony. Each separate violation of any provision of this section, other than the provisions of subsection (a), (d) or (e), shall be a class B misdemeanor, and upon conviction shall be punishable by a fine of not more than $500 nor more than $1,000 or imprisonment for not more than one year, or both.

(j) The secretary of revenue or the secretary's authorized agent, may refer such evidence as may be available concerning violations of this act to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary's authorized agent, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties
prescribed by law for assistant attorneys general or assistant county or
district attorneys and such other powers and duties as are lawfully
delegated to such special prosecutor by the attorney general or the county
attorney or district attorney. If an attorney employed by the secretary or
secretary's authorized agent acts as a special prosecutor, the secretary
may pay extradition and witness expenses associated with the case.

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

Sec. 16. K.S.A. 2015 Supp. 79-3335 is hereby amended to read as
follows: 79-3335. (a) Counterfeit cigarettes shall be seized by the director.
For purposes of this section, counterfeit cigarettes includes cigarettes
manufactured, sold, transported, imported, distributed or possessed in this
state with intent to deceive consumers and to avoid the provisions of this
act, and also includes cigarettes that have false manufacturing labels or
packages of cigarettes bearing counterfeit tax stamps. It shall be unlawful
for any person to sell, transport, import, distribute, wholesale or
manufacture counterfeit cigarettes.

(b) Except as otherwise provided by this act, a violation of the
provisions of this subsection shall be a:

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

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

(3) a level 6, nonperson felony for a third and all subsequent
violations, and the offender shall be fined $100,000 upon a third and all
subsequent convictions.

(c) The secretary of revenue, or the secretary's authorized agent, may
refer such evidence as may be available concerning violations of this act
or any rules and regulations or order hereunder to the attorney general or
the proper county or district attorney, who may in the prosecutor's
discretion, with or without such a reference, institute the appropriate
criminal proceedings under this act. Upon receipt of such reference, the
attorney general or the county attorney or district attorney may request
that a duly employed attorney of the department of revenue prosecute or
assist in the prosecution of such violation or violations on behalf of the
state. Upon approval of the secretary or the secretary's authorized agent,
such employee shall be appointed a special prosecutor for the attorney
general or the county attorney or district attorney to serve without
compensation from the attorney general or the county attorney or district
attorney. Such special prosecutor shall have all the powers and duties
prescribed by law for assistant attorneys general or assistant county or
district attorneys and such other powers and duties as are lawfully
delegated to such special prosecutor by the attorney general or the county
attorney or district attorney. If an attorney employed by the secretary or
secretary's authorized agent acts as a special prosecutor, the secretary
may pay extradition and witness expenses associated with the case.

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

Sec. 17. K.S.A. 79-3378 is hereby amended to read as follows: 79-
3378. (a) On or before the twentieth 20th 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
electronically in the manner 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.

(b) 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.

Sec. 18. K.S.A. 2015 Supp. 79-3387 is hereby amended to read as
follows: 79-3387. (a) All revenue collected or received by the director
from taxes imposed by this act 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 to the credit of the state
general fund.

(b) All moneys received from license fees, forfeiture proceeds under
K.S.A. 79-3324a, and amendments thereto, and fines imposed by this act
shall be collected by the director and 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 to the credit of the cigarette
and tobacco products regulation fund created by K.S.A. 79-3391, and
amendments thereto, and such proceeds shall be used exclusively for
cigarette and tobacco products regulation and enforcement, and not for
any other purpose.

Sec. 19. K.S.A. 2015 Supp. 79-3391 is hereby amended to read as
follows: 79-3391. (a) In addition to or in lieu of any other civil or criminal
penalty provided by law, the secretary of revenue or the secretary's
designee, upon a finding that a licensee person under this act has violated
any provision of this act or any provision of any rule and regulation of the
secretary of revenue adopted pursuant to this act shall impose on such
licensee person a civil fine not exceeding $1,000 $2,500 for each
violation.

(b) It shall be unlawful for any person, directly or indirectly, to: (1)
Sell, give or furnish any cigarettes or tobacco products to any person under
18 years of age; or (2) buy any cigarettes or tobacco products for any
person under 18 years of age. In determining the fine to be imposed under
this subsection by a licensed retail dealer whose employee sold, furnished
or distributed the cigarettes or tobacco products, the secretary of revenue
or the secretary's designee shall consider it to be a mitigating circumstance
if the employee had completed a training program, approved by the
secretary of revenue or the secretary's designee, in avoiding sale,
furnishing or distributing of cigarettes and tobacco products to persons
under 18 years of age.

(c) No fine shall be imposed pursuant to this section except upon the
written order of the secretary of revenue or the secretary's designee to the
licensee who committed the violation. Such order shall state the violation,
the fine to be imposed and the right of the licensee to appeal the order.
Such order shall be subject to appeal and review in the manner provided
by the Kansas administrative procedure act.

(d) Any fine collected pursuant to this section 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 to the credit
of the cigarette and tobacco products regulation fund.

(e) There is hereby created, in the state treasury, the cigarette and
tobacco products regulation fund. Moneys in the fund shall be expended
only for the enforcement of this act and rules and regulations adopted
pursuant to this act. Such expenditures shall be made in accordance with
appropriation acts upon warrants of the director of accounts and reports
issued pursuant to vouchers approved by the secretary of revenue or a
person designated by the secretary.
(f) If a person violates subsection (b) for a second or subsequent occurrence within a three-year period, the secretary may impose a graduated fine upon such person for the second or subsequent occurrence. For the purposes of imposing a fine under this section, if three or more years have elapsed since a person has been found to have violated the provisions of subsection (b), such person shall be treated as never having violated subsection (b).

Sec. 20. K.S.A. 2015 Supp. 79-3392 is hereby amended to read as follows: 79-3392. The provisions of K.S.A. 75-5133, 79-3610, 79-3611, 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto, relating to the assessment, collection, appeal and administration of the retailers' sales tax, insofar as practical, shall have full force and effect with respect to taxes, penalties and fines imposed by this act.

Sec. 21. K.S.A. 2015 Supp. 79-3393 is hereby amended to read as follows: 79-3393. (a) When a person is stopped by a law enforcement officer for a cigarette or tobacco infraction, the law enforcement officer shall prepare and deliver to the person a written cigarette or tobacco citation on a form approved by the secretary of revenue or the secretary's designee. The citation shall contain a notice to appear in court, the name and address of the person, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer and any other pertinent information. The time specified in the notice to appear shall be at least five days after the alleged infraction unless the person charged with the infraction demands an earlier hearing. The place specified in the notice to appear shall be before a judge of the district court within the county where the infraction is alleged to have been committed or before a judge of the municipal court where the infraction is alleged to have been committed in a city which has adopted an ordinance which prohibits the same acts.

(b) The notice to appear may provide that the person charged with the infraction shall appear in court with a parent or legal guardian and shall provide that the person charged has a right to trial.

(c) Acts classified as cigarette or tobacco infractions by subsection (c) of K.S.A. 79-3322(d), and amendments thereto, shall be classified as ordinance cigarette or tobacco infractions by those cities adopting ordinances prohibiting the same acts. The fine for an ordinance cigarette or tobacco infraction shall be $25.

Sec. 22. K.S.A. 2015 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. 2015 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 K.S.A. 50-6a02(d), and amendments thereto.

d) "Director" means the director of taxation.

e) "Indian tribe" means any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

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

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

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

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

j) "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.

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

l) "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.

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

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

o) "Qualified tribal land" means:

1) All land within the borders of this state that is within the limits of any Indian reservation under the jurisdiction of the United States,
notwithstanding the issuance of any patent, including rights-of-way running through the reservation;
(2) all dependent Indian communities within the borders of this state;
(3) all Indian allotments within the borders of this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments; and
(4) any lands within the borders of this state, the title to which is either held in trust by the United States for the benefit of any Indian tribe or individual, or held by any Indian tribe or individual subject to restriction by the United States against alienation, and over which an Indian tribe exercises governmental power.
(p) "Units sold" has the same meaning given that term in K.S.A. 50-6a02(j), and amendments thereto.
(q) "Vending machine operator" has the same meaning given that term in K.S.A. 79-3301(γ), and amendments thereto.
Sec. 24. This act shall take effect and be in force from and after its publication in the statute book.