HOUSE BILL No. 2231

By Committee on Taxation

AN ACT concerning tobacco; relating to rates of taxation, cigarettes and tobacco products; creating the cigarette and tobacco cessation fund; amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2016 Supp. 79-3310, 79-3310c, 79-3311, 79-3312 and 79-3387 and repealing the existing sections.

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

New Section 1. There is hereby established in the state treasury the cigarette and tobacco cessation fund which shall be administered by the secretary of the department of health and environment. All expenditures from the cigarette and tobacco cessation fund shall be for promoting the cessation of cigarette and tobacco usage. All expenditures from the cigarette and tobacco cessation fund 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 or the secretary's designee.

New Sec. 2. On or before July 31, 2017, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 a.m. on July 1, 2017. A tax at a rate equal to 55% of the wholesale price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before July 31, 2017. The tax upon such tobacco products shall be imposed only once under this act. 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. 3. K.S.A. 2016 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. On and after July 1, 2015, and before July 1, 2017, the rate of such tax shall be $1.29 on each 20 cigarettes or fractional part thereof or $1.61 on each 25 cigarettes, as the case requires. On and after July 1, 2017, the rate of such tax shall be $2.79 on each 20 cigarettes or fractional part thereof or $3.49 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.

The taxes imposed by this act are hereby levied upon all sales of

*provided.

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.

Sec. 4. K.S.A. 2016 Supp. 79-3310c is hereby amended to read as

follows: 79-3310c. On or before July 31, 2011, each wholesale
dealer, retail dealer and vending machine operator shall file a report with
the director in such form as the director may prescribe showing cigarettes,
cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, 2011.

A tax of $0.50 or $1.50 on each 20 cigarettes or fractional part thereof or
$0.62 or $1.88 on each 25 cigarettes, as the case requires and $0.50 or $0.62
$1.50 or $1.88, as the case requires upon all tax stamps and all meter

imprints purchased from the director and not affixed to cigarettes prior to
July 1, 2015, is hereby imposed and shall be due and payable on or
before October 31, 2015. The tax imposed upon such cigarettes, tax

stamps and meter imprints shall be imposed only once under this act. 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. 5. K.S.A. 2016 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 0.55% or 0.25% on and after July 1, 2015
2017, 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.
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.

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. 6. K.S.A. 2016 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% 0.25%
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 0.55% 0.25% of such tax.

Sec. 7. K.S.A. 79-3371 is hereby amended to read as follows: 79-
3371. A tax is hereby imposed upon the privilege of selling or dealing in
tobacco products in this state by any person engaged in business as a
distributor thereof, at the rate of ten percent (10%) 65% of the wholesale
sales price of such tobacco products. Such tax shall be imposed at the time
the distributor: (a) Brings or causes to be brought into this state from
without the state tobacco products for sale; (b) makes, manufactures, or
fabricates tobacco products in this state for sale in this state; or (c) ships or
transports tobacco products to retailers in this state to be sold by those
retailers.

Sec. 8. K.S.A. 79-3378 is hereby amended to read as follows: 79-
3378. 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
prescribed by the director. Each return shall be accompanied by a
remittance for the full tax liability shown therein, less four percent (4%)
0.6% of such liability as compensation to reimburse the distributor for his
or her the 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.

Sec. 9. K.S.A. 2016 Supp. 79-3387 is hereby amended to read as
follows: 79-3387. (a) Except as otherwise provided, 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 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.

(c) On and after July 1, 2017, and each July 1, thereafter, the state
treasurer shall deposit and credit the first $5,000,000 of revenue collected
or received by the director from taxes imposed by this act to the cigarette
and tobacco cessation fund established by section 1, and amendments
thereto. The state treasurer shall deposit and credit the remaining balance
to the credit of the state general fund.

Sec. 10. K.S.A. 79-3371 and 79-3378 and K.S.A. 2016 Supp. 79-
3310, 79-3310c, 79-3311, 79-3312 and 79-3387 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its
publication in the statute book.