

SENATE BILL No. 462

By Committee on Federal and State Affairs

3-13

1 AN ACT concerning the Kansas cigarette and tobacco products act;
2 relating to taxation and enforcement under the act; licensing of retail
3 dealers; amending K.S.A. 79-3304, 79-3309, 79-3371, 79-3373, 79-
4 3374, 79-3375, 79-3377, 79-3378 and 79-3379 and K.S.A. 2011 Supp.
5 50-6a07, 79-3301, 79-3302, 79-3303, 79-3310, 79-3311, 79-3312, 79-
6 3313, 79-3316, 79-3321, 79-3322 and 79-3333 and repealing the
7 existing sections; also repealing K.S.A. 2011 Supp. 79-3310c.
8

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

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

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

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

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

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

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

36 (e) "Master settlement agreement" has the same meaning given that

1 term in subsection (e) of K.S.A. 50-6a02, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (d) "Consumer" means the person purchasing or receiving cigarettes

1 or tobacco products for final use.

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

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

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

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

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

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

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

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

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

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

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

34 ~~(m) "Meter imprints" means tax indicia applied by means of ink~~
35 ~~printing machines.~~

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

39 (2) for the purposes of subsections (u), (v) and (w) of K.S.A. 79-
40 3321, and amendments thereto, "package" means the same as provided in
41 15 U.S.C. § 1332(4).

42 (o) "Person" means any individual, partnership, society, association,
43 joint-stock company, corporation, estate, receiver, trustee, assignee, referee

1 or any other person acting in a fiduciary or representative capacity whether
2 appointed by a court or otherwise and any combination of individuals.

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

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

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

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

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

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

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

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

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

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

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

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

43 (aa) (bb) "Vending machine operator" means any person who places a

1 vending machine, owned, leased or operated by such person, at locations
2 where cigarettes are sold from such vending machine. The owner or lessee
3 of the premises upon which a vending machine is placed shall not be
4 considered the operator of the machine, nor shall the owner or lessee, or
5 any employee or agent of the owner or lessee be considered an authorized
6 agent of the vending machine operator, if the owner or lessee does not own
7 or lease the machine and the owner's or lessee's sole remuneration from the
8 machine is a flat rental fee or commission based upon the number or value
9 of cigarettes sold from the machine, or a combination of both.

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

14 ~~(ee)~~ (dd) "Wholesale sales price" means the original net invoice price
15 for which a manufacturer sells a tobacco product to a distributor, as shown
16 by the manufacturer's original invoice.

17 ~~(dd)~~ (ee) "Importer" means the same as provided in 26 U.S.C. §
18 5702(l).

19 ~~(ee)~~ (ff) "Manufacturer" means the same as provided in 26 U.S.C. §
20 5702(d).

21 Sec. 4. K.S.A. 2011 Supp. 79-3302 is hereby amended to read as
22 follows: 79-3302. (a) ~~K.S.A. 79-3301 through 79-3304, 79-3306, 79-3309,~~
23 ~~79-3310, 79-3311, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321, 79-~~
24 ~~3322, 79-3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3371, 79-3373,~~
25 ~~79-3374, 79-3375, 79-3377, 79-3378, 79-3379, 79-3387, 79-3388, 79-~~
26 ~~3391, 79-3392, 79-3393, 79-3394 and K.S.A. 2011 Supp. 79-3395 through~~
27 ~~79-3398, and amendments thereto, The provisions of article 33 of this~~
28 ~~chapter shall be known and may be cited as the Kansas cigarette and~~
29 ~~tobacco products act.~~

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

32 Sec. 5. K.S.A. 2011 Supp. 79-3303 is hereby amended to read as
33 follows: 79-3303. (a) Each person engaged in the business of selling
34 cigarettes in the state of Kansas and each vending machine distributor shall
35 obtain a license as provided by this act. A separate application, license and
36 fee is required for each dealer establishment owned or operated by a
37 dealer. A vending machine operator is required to obtain a vending
38 machine operator's master license and, in addition, a separate permit for
39 each vending machine operated by the operator. A vending machine
40 operator may submit one application for the vending machine operator's
41 master license and all permits for vending machines operated by the
42 operator. The license shall be displayed in the dealer establishment and the
43 vending machine permit shall remain securely and visibly attached to the

1 vending machine and contain such information as the director may require.
2 Any vending machine found without such permit attached to the machine
3 shall be sealed by an agent of the director and such seal shall be removed
4 only by an agent of the director after payment of the permit fee and the
5 penalties provided by this act.

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

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

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

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

39 (f) On or before the 10th day of each month, each vending machine
40 distributor shall report to the director, on forms provided by the director,
41 all sales of cigarette vending machines by the distributor to persons in the
42 state of Kansas during the preceding month; the name and address of the
43 purchaser; and the brand name, serial number and sale price of the

1 machines. *The director may require such reports to be filed electronically.*

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

15 Sec. 6. K.S.A. 79-3304 is hereby amended to read as follows: 79-
16 3304. (a) The license fee for each biennium or portion thereof shall be as
17 follows:

18 (1) For retail dealer's license, \$25 for each dealer establishment.

19 (2) For retailer's license on railroad or sleeping cars, \$50. Only one
20 retail license need be obtained by each railroad or sleeping car company to
21 permit the sale of cigarettes on any or all of its cars within the state.

22 (3) For show, carnival or catering license, \$50 for each concession.

23 (4) For resident retail dealer's temporary license for a place of
24 business of a temporary nature, \$2 for each seven days or portion thereof.

25 (5) For wholesale dealer's license, \$50 for each dealer establishment.
26 No wholesale dealer's license shall be issued until the person applying
27 therefor has filed with the director a bond payable to the state of Kansas in
28 such an amount as shall be fixed by the director, but in no event less than
29 \$1,000, with a corporate surety authorized to do business in the state of
30 Kansas, and approved by the director. If a wholesale dealer is unable to
31 secure a corporate surety bond, the director may issue a license to such
32 wholesale dealer, upon the wholesale dealer furnishing a personal bond
33 meeting the approval of the director. Such bond shall be conditioned on the
34 wholesale dealer's compliance with all the provisions of this act during the
35 license period.

36 (6) For vending machine distributor's license, \$50.

37 (7) For manufacturer's salesperson license, \$20 for each salesperson.
38 The manufacturer's salesperson shall, with respect to each sale made to a
39 retail dealer, make and deliver to the retail dealer a true invoice wherein
40 such salesperson shall insert the name of the wholesale dealer from whom
41 such salesperson secured such cigarettes, together with such salesperson's
42 own name and the name of the retail dealer purchasing the cigarettes.

43 (8) For vending machine operator's license, no fee.

1 (9) For vending machine permit, \$25 for each permit.

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

22 Sec. 7. K.S.A. 79-3309 is hereby amended to read as follows: 79-
23 3309. (a) Whenever the director has reason to believe that any person
24 licensed under this act has violated any of the provisions of this act, the
25 director shall notify the person by certified mail of the director's intention
26 to suspend or revoke the person's license or licenses. Within 10 days after
27 the mailing of the notice, the person may request a hearing in writing
28 before the director. The hearing shall be conducted in accordance with the
29 provisions of the Kansas administrative procedure act. If, after such
30 hearing, it appears to the satisfaction of the director that the person has
31 violated any of the provisions of this act, the director is hereby authorized
32 and empowered to suspend or revoke the person's license or licenses ~~and~~.
33 *Any license which is revoked shall not be subject to renewal or*
34 *restoration, except that an application for a new license may be submitted*
35 *to and acted upon by the director after the expiration of 10 years. In*
36 *addition, the director may in addition deny the application of the person*
37 *for a license or licenses for a portion of the succeeding calendar year for*
38 *such period as the director determines is necessary, but in no case for a*
39 *period ending more than one year following the date upon which the*
40 *license or licenses were suspended or revoked. The suspension or*
41 *revocation of a vending machine operator's master license shall suspend or*
42 *revoke all vending machine permits issued to the vending machine*
43 *operator for the term of the license suspension or revocation. If a person*

1 *continues to engage in activities requiring a license while such license is*
2 *suspended, the license shall be immediately revoked and additional fines*
3 *and penalties may apply pursuant to this act.*

4 (b) If a person continues to engage in activities requiring a license
5 under this act after having notice or knowledge of the suspension or
6 revocation of the person's license or licenses or after becoming more than
7 10 days delinquent in the payment of any tax, penalty or interest imposed
8 pursuant to this act, the state shall be entitled, in any proceedings brought
9 for such purposes, to have an order and judgment restraining and enjoining
10 such unlawful sale and no bond shall be required for the issuance of any
11 such restraining order or injunction.

12 Sec. 8. K.S.A. 2011 Supp. 79-3310 is hereby amended to read as
13 follows: 79-3310. (a) There is imposed a tax upon all cigarettes sold,
14 distributed or given away within the state of Kansas. ~~On and after July 1,~~
15 ~~2002, and before January 1, 2003, the rate of such tax shall be \$.70 on~~
16 ~~each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes,~~
17 ~~as the case requires. On and after January 1, 2003, The rate of such tax~~
18 shall be \$.79 on each 20 cigarettes or fractional part thereof or \$.99 on
19 each 25 cigarettes, as the case requires. Such tax shall be collected and
20 paid to the director as provided in this act. Such tax shall be paid only once
21 and shall be paid by the wholesale dealer first receiving the cigarettes as
22 herein provided. *For any purchaser of cigarettes on which such tax has*
23 *not been paid by the wholesale dealer, the director may proceed directly*
24 *against such purchaser to collect the full amount of tax due. A purchaser*
25 *of cigarettes includes a consumer as defined in K.S.A. 79-3301, and*
26 *amendments thereto.*

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

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

1 *thereto, becomes effective.*

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

9 Sec. 9. K.S.A. 2011 Supp. 79-3311 is hereby amended to read as
10 follows: 79-3311. The director shall design and designate indicia of tax
11 payment to be affixed to each package of cigarettes as provided by this act.
12 The director shall sell ~~water applied stamps only to licensed wholesale~~
13 ~~dealers in the amounts of 1,000 or multiples thereof.~~ stamps applied by the
14 heat process ~~shall be sold only in amounts of 30,000 or multiples thereof,~~
15 except that such stamps which are suitable for packages containing 25
16 cigarettes each shall be sold in amounts prescribed by the director. ~~Meter~~
17 ~~imprints shall be sold only in amounts of 10,000 or multiples thereof.~~
18 ~~Water applied stamps in amounts of 10,000 or multiples thereof and~~
19 ~~Stamps applied by the heat process and meter imprints shall be supplied to~~
20 ~~wholesale dealers at a discount of .90% on and after July 1, 2002, and~~
21 ~~before January 1, 2003, and .80% thereafter from the face value thereof,~~
22 and shall be deducted at the time of purchase or from the remittance
23 thereof as hereinafter provided. Any wholesale cigarette dealer who shall
24 file with the director a bond, of acceptable form, payable to the state of
25 Kansas with a corporate surety authorized to do business in Kansas, shall
26 be permitted to purchase stamps, and remit therefor to the director within
27 30 days after each such purchase, up to a maximum outstanding at any one
28 time of 85% of the amount of the bond. Failure on the part of any
29 wholesale dealer to remit as herein specified shall be cause for forfeiture
30 of such dealer's bond. All revenue received from the sale of such stamps ~~or~~
31 ~~meter imprints~~ shall be remitted to the state treasurer in accordance with
32 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
33 of each such remittance, the state treasurer shall deposit the entire amount
34 in the state treasury. The state treasurer shall first credit such amount as the
35 director shall order to the cigarette tax refund fund and shall credit the
36 remaining balance to the state general fund. A refund fund designated the
37 cigarette tax refund fund not to exceed \$10,000 at any time shall be set
38 apart and maintained by the director from taxes collected under this act
39 and held by the state treasurer for prompt payment of all refunds
40 authorized by this act. Such cigarette tax refund fund shall be in such
41 amount as the director shall determine is necessary to meet current
42 refunding requirements under this act.

43 The wholesale cigarette dealer shall affix to each package of cigarettes

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

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

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

1 of the tax paid on cigarettes which have become unfit for sale upon proof
2 thereof less ~~.90% on and after July 1, 2002, and before January 1, 2003,~~
3 ~~and .80% thereafter~~ of such tax.

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

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

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

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

40 (c) All invoices issued by wholesale dealers shall be in duplicate and
41 a copy must accompany the consigned cigarettes. Cigarettes sold by a
42 wholesale dealer to any other dealer shall be evidenced by invoices
43 bearing the vendee's name and license number. A wholesale dealer selling

1 cigarettes to a manufacturer's salesperson shall at the time of delivery of
2 same make a true duplicate invoice inserting therein the name of the
3 salesman together with the name of such salesperson's employer.

4 (d) All records pertaining to sales of cigarettes by dealers in the state
5 of Kansas shall be preserved for a period of three years and shall be
6 available for inspection by the director or the director's designee at the
7 dealer's place of business or, if the dealer has more than one place of
8 business in the state, at a central location of the dealer.

9 (e) Every wholesale dealer shall report to the director on or before the
10 10th day of each month, stating the amount of cigarettes sold during the
11 preceding month and the amount of all cigarettes returned to the
12 manufacturer. Any wholesale dealer who refuses any shipment or part of a
13 shipment of unstamped cigarettes or has a shortage in the shipment of
14 cigarettes consigned to such dealer shall in the monthly report next
15 following the refusal or shortage report to the director the number of
16 packages or cartons of cigarettes refused or short and the name of the
17 carrier from whom the cigarettes were refused or shortage occurred. Such
18 report shall be made on forms provided by the director and shall contain
19 such other information as the director may require. *The director may*
20 *require such reports to be filed electronically.*

21 (f) Exemption from payment of cigarette tax on sale of cigarettes
22 made outside the state by any wholesale dealer shall be filed on forms
23 provided by the director.

24 Sec. 13. K.S.A. 2011 Supp. 79-3321 is hereby amended to read as
25 follows: 79-3321. It shall be unlawful for any person:

26 (a) To possess, except as otherwise specifically provided by this act,
27 more than 200 cigarettes without the required tax indicia being affixed as
28 herein provided.

29 (b) To mutilate or attach to any individual package of cigarettes any
30 stamp that has in any manner been mutilated or that has been heretofore
31 attached to a different individual package of cigarettes or to have in
32 possession any stamps so mutilated. *To affix any stamp in such a manner*
33 *that does not preserve the legibility of the serial number printed on the*
34 *stamp and other identifiable characteristics as determined by the director.*

35 (c) To prevent the director or any officer or agent authorized by law,
36 to make a full inspection for the purpose of this act, of any place of
37 business and all premises connected thereto where cigarettes are or may be
38 manufactured, sold, distributed; or given away.

39 (d) To use any artful device or deceptive practice to conceal any
40 violation of this act or to mislead the director or officer or agent authorized
41 by law in the enforcement of this act.

42 (e) Who is a dealer to fail to produce on demand of the director or
43 any officer or agent authorized by law any records or invoices required to

1 be kept by such person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (s) To distribute samples ~~within 500 feet of any school when such~~
41 ~~facility is being used primarily by persons under 18 years of age unless the~~
42 ~~sampling is: (1) In an area to which persons under 18 years of age are~~
43 ~~denied access;~~

1 ~~(2) in or at a retail location where cigarettes and tobacco products are~~
2 ~~the primary commodity offered for sale at retail; or~~

3 ~~(3) at or adjacent to an outdoor production, repair or construction site~~
4 ~~or facility.~~

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

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

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

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

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

23 (1) A vending machine that is permitted under subsection (t); or

24 (2) a self-service display that is located in a tobacco specialty store.

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

28 (1) Any cigarettes the package of which (A) bears any statement,
29 label, stamp, sticker or notice indicating that the manufacturer did not
30 intend the cigarettes to be sold, distributed or used in the United States,
31 including but not limited to, labels stating "For Export Only", "U.S. Tax-
32 Exempt", "For Use Outside U.S." or similar wording; or (B) does not
33 comply with (i) all requirements imposed by or pursuant to federal law
34 regarding warnings and other information on packages of cigarettes
35 manufactured, packaged or imported for sale, distribution or use in the
36 United States, including but not limited to the precise warning labels
37 specified in the federal cigarette labeling and advertising act, 15 U.S.C. §
38 1333; and (ii) all federal trademark and copyright laws;

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

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

1 United States; or

2 (4) any cigarettes for which there has not been submitted to the
3 secretary of the U.S. department of health and human services the list or
4 lists of the ingredients added to tobacco in the manufacture of such
5 cigarettes required by the federal cigarette labeling and advertising act, 15
6 U.S.C. § 1335a.

7 (w) To alter the package of any cigarettes, prior to sale or distribution
8 to the ultimate consumer, so as to remove, conceal or obscure:

9 (1) Any statement, label, stamp, sticker or notice described in
10 subsection (v); or

11 (2) any health warning that is not specified in, or does not conform
12 with, the requirements of, the federal cigarette labeling and advertising act,
13 15 U.S.C. § 1333.

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

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

19 (z) *To buy any cigarettes or tobacco products for any person under*
20 *18 years of age.*

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

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

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

1 person was of legal age to purchase or receive cigarettes or tobacco
2 products.

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

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

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

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

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

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

30 (c) All retail cigarette dealers, whether located in or outside the state
31 of Kansas, shall have a registration certificate as provided in K.S.A. 79-
32 3608, and amendments thereto, and be subject to the provisions of the
33 Kansas retailers' sales tax act. Each licensed retail cigarette dealer selling
34 cigarettes over the internet, telephone or other mail order transaction shall
35 file all sales tax returns and remit taxes owed pursuant to K.S.A. 79-3607,
36 and amendments thereto.

37 (d) All sales transactions over the internet, telephone or other mail
38 order transaction shall not be completed, unless, before each delivery of
39 cigarettes is made, whether through the mail, through a transportation
40 company or any other delivery system, the seller has obtained from the
41 purchaser a certification that includes a reliable confirmation that the
42 purchaser is at least the legal minimum age to purchase cigarettes; that the
43 cigarettes purchased are not intended for consumption by an individual

1 who is younger than the legal minimum age to purchase cigarettes; and a
2 written statement signed by the purchaser that certifies the purchaser's
3 address and that the purchaser is at least the minimum legal age to
4 purchase cigarettes. Such statement shall also confirm: (1) That the
5 purchaser understands that signing another person's name to such
6 certification is illegal; (2) that the sale of cigarettes to individuals under
7 the legal minimum purchase age is illegal; and (3) that the purchase of
8 cigarettes by individuals under the legal minimum purchase age is illegal
9 under the laws of Kansas.

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

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

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

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

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

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

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

42 Sec. 16. K.S.A. 79-3371 is hereby amended to read as follows: 79-
43 3371. (a) A tax is hereby imposed upon the privilege of selling or

1 dealing in tobacco products, *other than little cigars*, in this state by any
2 person engaged in business as a distributor thereof, at the rate of ~~ten~~
3 ~~percent (10%)~~ 30% of the wholesale sales price of such tobacco products.
4 ~~Such tax~~ *A tax is hereby imposed upon the privilege of selling or dealing*
5 *in little cigars in this state by any person engaged in business as a*
6 *distributor thereof. The tax on little cigars shall be at the same rate as is*
7 *imposed on cigarettes under the provisions of K.S.A. 79-3310, and*
8 *amendments thereto. Taxes imposed under this section shall be imposed at*
9 *the time the distributor-(a) : (1) Brings or causes to be brought into this
10 state from without the state tobacco products for sale; ~~(b)~~ (2) makes,
11 manufactures, or fabricates tobacco products in this state for sale in this
12 state; or ~~(c)~~ (3) ships or transports tobacco products to retailers in this state
13 to be sold by those retailers. *For any purchaser of tobacco products on*
14 *which such tax has not been paid by the distributor, the director may*
15 *proceed directly against such purchaser to collect the full amount of tax*
16 *due. A purchaser of tobacco products includes a consumer as defined in*
17 *K.S.A. 79-3301, and amendments thereto.**

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

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

39 Sec. 17. K.S.A. 79-3373 is hereby amended to read as follows: 79-
40 3373. (a) No person shall engage in the business of selling or dealing in
41 tobacco products as a distributor *or as a retail dealer* in this state without
42 first having received a license from the director. *A separate application,*
43 *license and fee is required for each retail dealer establishment owned or*

1 *operated by a retail dealer.* Every application for ~~such~~ a license shall be
2 made on a form prescribed by the director and shall state the name and
3 address of the applicant; if the applicant is a firm, partnership or
4 association, the name and address of each of its members; if the applicant
5 is a corporation, the name and address of each of its officers; the address
6 of its principal place of business; the place where the business to be
7 licensed is to be conducted; and such other information as the director may
8 require for the purpose of the administration of this act.

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

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

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

32 Sec. 18. K.S.A. 79-3374 is hereby amended to read as follows: 79-
33 3374. Each application for a distributor's license shall be accompanied by
34 a fee of ~~twenty-five dollars (\$25)~~ \$25. The application shall also be
35 accompanied by a corporate surety bond issued by a surety company
36 authorized to do business in this state, conditioned for the payment when
37 due of all taxes, penalties and accrued interest which may be due the state.
38 The bond shall be in an amount to be determined by the director and in a
39 form prescribed by the director. Whenever it is the opinion of the director
40 that the bond given by a licensee is inadequate in amount to fully protect
41 the state, ~~he or she~~ the director shall require an additional bond in such
42 amount as ~~he or she~~ the director deems sufficient. A separate application
43 for a license shall be made for each place of business at which a distributor

1 proposes to engage in business as such under this act, but an applicant may
2 provide one bond in an amount determined by the director for all
3 applications made by ~~him or her~~ *such applicant*. A distributor applying for
4 a license between June ~~thirtieth~~ 30 and December ~~thirty-first~~ 31 of any
5 year shall be required to pay only one-half of the license fee provided for
6 herein.

7 Sec. 19. K.S.A. 79-3375 is hereby amended to read as follows: 79-
8 3375. Upon receipt of an application in proper form and payment of the
9 license fee required hereunder, the director shall, unless otherwise
10 provided by this act, issue to applicant a license hereunder, which license
11 shall permit the applicant to whom it is issued to engage in business as a
12 distributor at the place of business shown on the license. Each license shall
13 expire on December ~~thirty-first~~ 31 following its date of issue unless sooner
14 revoked by the director, or unless the business for which the license was
15 issued is transferred. In either case the holder of the license shall
16 immediately surrender it to the director. Each license shall be prominently
17 displayed on the premises covered by the license. No license shall be
18 transferable to any other person.

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

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

1 grounds for revocation of the license.

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

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

13 Sec. 21. K.S.A. 79-3378 is hereby amended to read as follows: 79-
14 3378. On or before the ~~twentieth~~ 20th day of each calendar month every
15 distributor with a place of business in this state shall file a return with the
16 director showing the quantity and wholesale sales price of each tobacco
17 product (1) brought, or caused to be brought, into this state for sale; and
18 (2) made, manufactured, or fabricated in this state for sale in this state
19 during the preceding calendar month. Every licensed distributor outside
20 this state shall in like manner file a return showing the quantity and
21 wholesale sales price of each tobacco product shipped or transported to
22 retailers in this state to be sold by those retailers, during the preceding
23 calendar month. Returns shall be made upon forms furnished and
24 prescribed by the director. Each return shall be accompanied by a
25 remittance for the full tax liability shown therein, less ~~four percent (4%)~~
26 4% of such liability as compensation to reimburse the distributor for ~~his or~~
27 ~~her~~ such distributor's expenses incurred in the administration of this act.
28 As soon as practicable after any return is filed, the director shall examine
29 the return. If the director finds that, in ~~his or her~~ the director's judgment,
30 the return is incorrect and any amount of tax is due from the distributor
31 and unpaid, ~~he or she~~ the director shall notify the distributor of the
32 deficiency. If a deficiency disclosed by the director's examination cannot
33 be allocated by ~~him~~ the director to a particular month or months, ~~he or she~~
34 the director may nevertheless notify the distributor that a deficiency exists
35 and state the amount of tax due. Such notice shall be given to the
36 distributor by registered or certified mail. *The director may require such*
37 *reports to be filed electronically.*

38 Sec. 22. K.S.A. 79-3379 is hereby amended to read as follows: 79-
39 3379. Where tobacco products, on which the tax imposed by this act has
40 been reported and paid, or which have been reported for the purpose of
41 determining and imposing the tax for the privilege of doing business under
42 the provisions of this act and on which the tax has been paid, are sold,
43 shipped or transported by the distributor to retailers, distributors or

1 ultimate consumers ~~without~~ *outside* the state, or are returned to the
2 manufacturer by the distributor, or destroyed by the distributor, a refund or
3 credit of such tax shall be made to the distributor. For the purpose of
4 making such credit or refund, or any combination thereof, the director may
5 issue a tax credit memoranda or may prepare a voucher showing the net
6 amount of such refund due and the director of accounts and reports shall
7 draw a warrant upon the state treasurer for the amount of any such refund
8 certified by the director.

9 Sec. 23. K.S.A. 79-3304, 79-3309, 79-3371, 79-3373, 79-3374, 79-
10 3375, 79-3377, 79-3378 and 79-3379 and K.S.A. 2011 Supp. 50-6a07, 79-
11 3301, 79-3302, 79-3303, 79-3310, 79-3310c, 79-3311, 79-3312, 79-3313,
12 79-3316, 79-3321, 79-3322 and 79-3333 are hereby repealed.

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