

SENATE BILL No. 376

By Committee on Public Health and Welfare

2-5

1 AN ACT concerning tobacco; relating to rates of taxation, cigarettes and
2 tobacco products; creating the cigarette and tobacco cessation fund;
3 amending K.S.A. 79-3371 and K.S.A. 2017 Supp. 79-3310, 79-3310c,
4 79-3311, 79-3312, 79-3378 and 79-3387 and repealing the existing
5 sections.
6

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

8 New Section 1. There is hereby established in the state treasury the
9 cigarette and tobacco cessation fund, which shall be administered by the
10 secretary of the department of health and environment. All expenditures
11 from the cigarette and tobacco cessation fund shall be for promoting the
12 cessation of cigarette and tobacco usage. All expenditures from the
13 cigarette and tobacco cessation fund shall be made in accordance with
14 appropriation acts upon warrants of the director of accounts and reports
15 issued pursuant to vouchers approved by the secretary or the secretary's
16 designee.

17 New Sec. 2. On or before July 31, 2018, each distributor having a
18 place of business in this state shall file a report with the director in such
19 form as the director may prescribe, showing the tobacco products on hand
20 at 12:01 a.m. on July 1, 2018. A tax at a rate equal to 55% of the wholesale
21 price of such tobacco products is hereby imposed upon such tobacco
22 products and shall be due and payable on or before July 31, 2018. The tax
23 upon such tobacco products shall be imposed only once under this act. The
24 director shall remit all moneys collected pursuant to this section to the
25 state treasurer, who shall credit the entire amount thereof to the state
26 general fund.

27 Sec. 3. K.S.A. 2017 Supp. 79-3310 is hereby amended to read as
28 follows: 79-3310. There is imposed a tax upon all cigarettes sold,
29 distributed or given away within the state of Kansas. On and after July 1,
30 2015, and before July 1, 2018, the rate of such tax shall be \$1.29 on each
31 20 cigarettes or fractional part thereof or \$1.61 on each 25 cigarettes, as
32 the case requires. *On and after July 1, 2018, the rate of such tax shall be*
33 *\$2.79 on each 20 cigarettes or fractional part thereof or \$3.49 on each 25*
34 *cigarettes, as the case requires.* Such tax shall be collected and paid to the
35 director as provided in this act. Such tax shall be paid only once and shall
36 be paid by the wholesale dealer first receiving the cigarettes as herein

1 provided.

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

6 Sec. 4. K.S.A. 2017 Supp. 79-3310c is hereby amended to read as
7 follows: 79-3310c. On or before July 31, ~~2015~~ 2018, each wholesale
8 dealer, retail dealer and vending machine operator shall file a report with
9 the director in such form as the director may prescribe showing cigarettes,
10 cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2015~~
11 2018. A tax of ~~\$.50~~ \$1.50 on each 20 cigarettes or fractional part thereof or
12 ~~\$.62~~ \$1.88 on each 25 cigarettes, as the case requires and ~~\$.50 or \$.62~~
13 ~~\$1.50 or \$1.88~~, as the case requires upon all tax stamps and all meter
14 imprints purchased from the director and not affixed to cigarettes prior to
15 July 1, ~~2015~~ 2018, is hereby imposed and shall be due and payable on or
16 before October 31, ~~2015~~ 2018. The tax imposed upon such cigarettes, tax
17 stamps and meter imprints shall be imposed only once under this act. The
18 director shall remit all moneys collected pursuant to this section to the
19 state treasurer, who shall credit the entire amount thereof to the state
20 general fund.

21 Sec. 5. K.S.A. 2017 Supp. 79-3311 is hereby amended to read as
22 follows: 79-3311. The director shall design and designate indicia of tax
23 payment to be affixed to each package of cigarettes as provided by this act.
24 Stamps applied by the heat process shall be sold only in amounts of 30,000
25 or multiples thereof, except that such stamps which are suitable for
26 packages containing 25 cigarettes each shall be sold in amounts prescribed
27 by the director. Stamps applied by the heat process shall be supplied to
28 wholesale dealers in good standing with the director at the time of
29 purchase at a discount of ~~0.55%~~ 0.25% on and after July 1, ~~2015~~ 2018, and
30 thereafter, from the face value thereof, and shall be deducted at the time of
31 purchase or from the remittance therefor as hereinafter provided. Any
32 wholesale cigarette dealer who shall file with the director a bond, of
33 acceptable form, payable to the state of Kansas with a corporate surety
34 authorized to do business in Kansas, shall be permitted to purchase stamps,
35 and remit therefor to the director within 30 days after each such purchase,
36 up to a maximum outstanding at any one time of 85% of the amount of the
37 bond. Failure on the part of any wholesale dealer to remit as herein
38 specified shall be cause for forfeiture of such dealer's bond. All revenue
39 received from the sale of such stamps shall be remitted to the state
40 treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury. The state
43 treasurer shall first credit such amount as the director shall order to the

1 cigarette tax refund fund and shall credit the remaining balance to the state
2 general fund. A refund fund designated the cigarette tax refund fund not to
3 exceed \$10,000 at any time shall be set apart and maintained by the
4 director from taxes collected under this act and held by the state treasurer
5 for prompt payment of all refunds authorized by this act. Such cigarette tax
6 refund fund shall be in such amount as the director shall determine is
7 necessary to meet current refunding requirements under this act.

8 The wholesale cigarette dealer shall affix to each package of cigarettes
9 stamps required by this act prior to the sale of cigarettes to any person, by
10 such dealer or such dealer's agent or agents, within the state of Kansas.
11 The director is empowered to authorize wholesale dealers to affix revenue
12 tax stamps upon original packages of cigarettes and is charged with the
13 duty of regulating the use of tax stamps to secure payment of the proper
14 taxes. No wholesale dealer shall affix revenue tax stamps to original
15 packages of cigarettes without first having obtained permission from the
16 director to employ this method of affixation. If the director approves the
17 wholesale dealer's application for permission to affix revenue tax stamps
18 to original packages of cigarettes, the director shall require such dealer to
19 file a suitable bond payable to the state of Kansas executed by a corporate
20 surety authorized to do business in Kansas. The director may, to assure the
21 proper collection of taxes imposed by the act, revoke or suspend the
22 privilege of affixing tax stamps upon original packages of cigarettes.

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

27 Sec. 6. K.S.A. 2017 Supp. 79-3312 is hereby amended to read as
28 follows: 79-3312. The director shall redeem any unused stamps that any
29 wholesale dealer presents for redemption within six months after the
30 purchase thereof, at the face value less ~~0.55%~~ 0.25% thereof if such
31 stamps have been purchased from the director and are whole, complete
32 stamps. The director shall prepare a voucher showing the net amount of
33 such refund due, and the director of accounts and reports shall draw a
34 warrant on the state treasurer for the same. Wholesale dealers shall be
35 entitled to a refund of the tax paid on cigarettes which have become unfit
36 for sale upon proof thereof less ~~0.55%~~ 0.25% of such tax.

37 Sec. 7. K.S.A. 79-3371 is hereby amended to read as follows: 79-
38 3371. A tax is hereby imposed upon the privilege of selling or dealing in
39 tobacco products in this state by any person engaged in business as a
40 distributor thereof, at the rate of ~~ten percent (10%)~~ 65% of the wholesale
41 sales price of such tobacco products. Such tax shall be imposed at the time
42 the distributor: (a) Brings or causes to be brought into this state from
43 without the state tobacco products for sale; (b) makes, manufactures, or

1 fabricates tobacco products in this state for sale in this state; or (c) ships or
2 transports tobacco products to retailers in this state to be sold by those
3 retailers.

4 Sec. 8. K.S.A. 2017 Supp. 79-3378 is hereby amended to read as
5 follows: 79-3378. (a) On or before the 20th day of each calendar month
6 every distributor with a place of business in this state shall file a return
7 with the director showing the quantity and wholesale sales price of each
8 tobacco product: (1) Brought, or caused to be brought, into this state for
9 sale; and (2) made, manufactured, or fabricated in this state for sale in this
10 state during the preceding calendar month. Every licensed distributor
11 outside this state shall in like manner file a return showing the quantity and
12 wholesale sales price of each tobacco product shipped or transported to
13 retailers in this state to be sold by those retailers, during the preceding
14 calendar month. Returns shall be made electronically in the manner
15 prescribed by the director. Each return shall be accompanied by a
16 remittance for the full tax liability shown therein, less ~~4%~~ 0.6% of such
17 liability as compensation to reimburse the distributor for such distributor's
18 expenses incurred in the administration of this act.

19 (b) As soon as practicable after any return is filed, the director shall
20 examine the return. If the director finds that, in the director's judgment, the
21 return is incorrect and any amount of tax is due from the distributor and
22 unpaid, the director shall notify the distributor of the deficiency. If a
23 deficiency disclosed by the director's examination cannot be allocated by
24 the director to a particular month or months, the director may nevertheless
25 notify the distributor that a deficiency exists and state the amount of tax
26 due. Such notice shall be given to the distributor by registered or certified
27 mail.

28 Sec. 9. K.S.A. 2017 Supp. 79-3387 is hereby amended to read as
29 follows: 79-3387. (a) *Except as otherwise provided*, all revenue collected
30 or received by the director from taxes imposed by this act shall be remitted
31 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
32 and amendments thereto. Upon receipt of each such remittance, the state
33 treasurer shall deposit the entire amount in the state treasury to the credit
34 of the state general fund.

35 (b) All moneys received from license fees, forfeiture proceeds under
36 K.S.A. 79-3324a, and amendments thereto, and fines imposed by this act
37 shall be collected by the director and shall be remitted to the state treasurer
38 in accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto. Upon receipt of each such remittance, the state treasurer shall
40 deposit the entire amount in the state treasury to the credit of the cigarette
41 and tobacco products regulation fund created by K.S.A. 79-3391, and
42 amendments thereto, and such proceeds shall be used exclusively for
43 cigarette and tobacco products regulation and enforcement, and not for any

1 other purpose.

2 *(c) On and after July 1, 2018, and each July 1 thereafter, the state*
3 *treasurer shall deposit and credit the first \$5,000,000 of revenue collected*
4 *or received by the director from taxes imposed by this act to the cigarette*
5 *and tobacco cessation fund established by section 1, and amendments*
6 *thereto. The state treasurer shall deposit and credit the remaining balance*
7 *to the state general fund.*

8 Sec. 10. K.S.A. 79-3371 and K.S.A. 2017 Supp. 79-3310, 79-3310c,
9 79-3311, 79-3312, 79-3378 and 79-3387 are hereby repealed.

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