

2018 Kansas Statutes

79-3323. Contraband goods; seizure. (a) Except as provided in subsection (c), the following are declared to be common nuisances and contraband:

- (1) All packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment as required in this act and all devices for vending cigarettes in which unstamped packages are found;
- (2) all packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment as required by any compact between:
 - (A) The governor and the Prairie Band Potawatomi Nation and approved by the legislature; (B) the governor and the Iowa Tribe of Kansas and Nebraska and approved by the legislature; (C) the governor and the Kickapoo Tribe in Kansas and approved by the legislature; or (D) the governor and the Sac and Fox Nation of Missouri in Kansas and Nebraska and approved by the legislature;
- (3) all cigarettes or tobacco products in the possession of a minor;
- (4) cigarettes, smokeless tobacco or roll-your-own tobacco in violation of K.S.A. 50-6a01 et seq., and amendments thereto; and
- (5) all property, including vehicles, used in the sale, transportation, distribution, importation, wholesale or manufacture of unstamped packages of cigarettes.

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

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

(c) Cigarettes in quantities of 1,000 or less in the possession of a licensee are not declared a common nuisance and contraband if the licensee has: (1) Segregated the cigarettes from public view; (2) marked the cigarettes as not for retail sale to consumers; and (3) within 72 hours of receipt, notified the licensee's wholesale dealer, in writing, that the cigarettes do not bear indicia of Kansas tax and that the wholesale dealer shall remove the cigarettes from the licensee's premises.

History: L. 1933, ch. 122, § 20 (Special Session); L. 1939, ch. 329, § 20; L. 1953, ch. 440, § 1; L. 1967, ch. 498, § 16; L. 1980, ch. 319, § 2; L. 1996, ch. 214, § 10; L. 2017, ch. 96, § 13; June 22.