

2018 Kansas Statutes

79-3324a. Contraband goods; seizure and sale; disposition of proceeds. (a) All of the cigarettes and property seized by the director or the director's authorized agent shall first be listed and appraised by the person making the seizure, and turned over to the director and a receipt taken. The person making the seizure shall immediately make and file a written report showing the name of the person making the seizure, the place where, and the person from whom the property was seized, and inventory and appraisal thereof, at the usual and ordinary wholesale price of the articles received by the director of taxation. The director shall institute forfeiture proceedings within the department of revenue in the name of the state of Kansas, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown, in the name of the property seized. The director shall issue notice to the owner or person in whose possession such property was found, directing such person to answer within 10 days. The forfeiture hearing under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If the property is declared forfeited and ordered sold, notice of the sale shall be posted in the official newspaper of Shawnee county, Kansas, not less than 10 days before the date of the sale, except that cigarettes shall be withheld from public sale and shall be sold by the director of taxation to the manufacturer of such cigarettes or to a licensed distributor and the purchase price shall be paid to the director of taxation and treated as cigarette tax collected. After deducting all costs incurred in the seizure, forfeiture and sale of all contraband, including cigarettes and property seized by the director or by the director's authorized agent, pursuant to this subsection, all such proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created by K.S.A. 79-3391, and amendments thereto, and such proceeds shall be used exclusively for cigarette and tobacco products regulation and enforcement, and not for any other purpose.

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

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

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

History: L. 1980, ch. 319, § 3; L. 2017, ch. 96, § 14; June 22.