

**HOUSE BILL No. 2294**

By Committee on Judiciary

2-6

1 AN ACT concerning cigarettes and tobacco products; increasing the  
2 minimum age required to purchase or possess such products;  
3 establishing unlawful acts under the Kansas cigarette and tobacco  
4 products act and penalties for violations thereof; amending K.S.A. 12-  
5 4215, 28-172a, 79-3301, 79-3302, 79-3303, 79-3304, 79-3309, 79-  
6 3321, 79-3322, 79-3323, 79-3324a, 79-3333, 79-3334, 79-3391, 79-  
7 3394, 79-3396 and 79-3397 and K.S.A. 2022 Supp. 19-4715a, 21-5102,  
8 50-6a14 and 50-6a17 and repealing the existing sections; also repealing  
9 K.S.A. 79-3393.

10

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

12 New Section 1. (a) The provisions of the Kansas cigarette and  
13 tobacco products act shall be liberally construed so as to further the  
14 purposes of the act.

15 (b) The provisions of this section shall be a part of and supplemental  
16 to the Kansas cigarette and tobacco products act.

17 Sec. 2. K.S.A. 12-4215 is hereby amended to read as follows: 12-  
18 4215. (a) As used in this section:

19 (1) "Electronic citation" means a charging citation, complaint or  
20 notice to appear which is prepared by a law enforcement officer in an  
21 electronic data device with intent that the data collected will be  
22 electronically filed with a municipal court as provided in K.S.A. 12-4201  
23 through 12-4207, and amendments thereto, for prosecution of a municipal  
24 ordinance violation. The data elements collected shall conform to the  
25 requirements of K.S.A. 12-4201 through 12-4207, and amendments  
26 thereto, ~~or the requirements of the secretary of revenue or the secretary's~~  
27 ~~designee pursuant to K.S.A. 79-3393, and amendments thereto,~~ as  
28 applicable.

29 (2) "Electronic citation system" means the device, database or  
30 computer software used to create, store, transmit or exchange the data  
31 included in an electronic citation.

32 (3) "Electronic signature" means an electronic signature having legal  
33 effect pursuant to the Kansas uniform electronic transaction act, K.S.A.  
34 16-1601 et seq., and amendments thereto.

35 (b) For purposes of an electronic citation, including the notice to  
36 appear and complaint, issued under this section, an electronic signature

1 indicated by the law enforcement officer's typed name, agency and agency  
2 identification number has the same effect and is as sufficient as a manual  
3 signature as required in K.S.A. 12-4202, 12-4204, 12-4207, ~~subsection (b)~~  
4 ~~of or 22-3201 or 79-3393(b)~~, and amendments thereto.

5 (c) A notice to appear, complaint or citation as provided in K.S.A. 12-  
6 4201 through 12-4207 ~~or 79-3393~~, and amendments thereto, shall be  
7 deemed to be written if on a paper form or in a document printed from an  
8 electronic citation system.

9 (d) For purposes of signing a notice to appear as provided in K.S.A.  
10 8-2107 and 12-4204, and amendments thereto, a person being charged by a  
11 law enforcement officer shall be deemed to have signed the notice to  
12 appear if the person physically signs the paper notice to appear or, in the  
13 case of an electronic citation, verbally acknowledges that the person  
14 promises to appear on or before the date set at or with the designated court.  
15 To secure a verbal promise to appear, the law enforcement officer shall  
16 ask, "Do you agree to appear at the \_\_\_\_\_ court on or before (date)?"  
17 The officer shall accurately record the response of the person being  
18 charged as: Yes, no or no response.

19 (e) This section shall be a part of and supplemental to the Kansas  
20 code of procedure for municipal courts.

21 Sec. 3. K.S.A. 2022 Supp. 19-4715a is hereby amended to read as  
22 follows: 19-4715a. (a) As used in this section:

23 (1) "Electronic citation" means a charging citation, complaint or  
24 notice to appear which is prepared by a law enforcement officer in an  
25 electronic data device with intent that the data collected will be  
26 electronically filed with a court as provided in K.S.A. 19-4709 through 19-  
27 4715, and amendments thereto, for prosecution of a violation of a county  
28 code or resolution. The data elements collected shall conform to the  
29 requirements of K.S.A. 19-4709 through 19-4715, and amendments  
30 thereto, ~~or the requirements of the secretary of revenue or the secretary's~~  
31 ~~designee pursuant to K.S.A. 79-3393, and amendments thereto~~, as  
32 applicable.

33 (2) "Electronic citation system" means the device, database or  
34 computer software used to create, store, transmit or exchange the data  
35 included in an electronic citation.

36 (3) "Electronic signature" means an electronic signature having legal  
37 effect pursuant to the Kansas uniform electronic transaction act, K.S.A.  
38 16-1601 et seq., and amendments thereto.

39 (b) For purposes of an electronic citation, including the notice to  
40 appear and complaint, issued under this section, an electronic signature  
41 indicated by the law enforcement officer's typed name, agency and agency  
42 identification number has the same effect and is as sufficient as a manual  
43 signature as required pursuant to K.S.A. 19-4710, 19-4712, 19-4715,

1 ~~subsection (b) of or 22-3201 or 79-3393(b)~~, and amendments thereto.

2 (c) A notice to appear, complaint or citation as provided in K.S.A. 19-  
3 4709 through 19-4715 ~~or 79-3393~~, and amendments thereto, shall be  
4 deemed to be written if on a paper form or in a document printed from an  
5 electronic citation system.

6 (d) For purposes of signing a notice to appear as provided in K.S.A.  
7 8-2107 and 19-4712, and amendments thereto, a person being charged by a  
8 law enforcement officer shall be deemed to have signed the notice to  
9 appear if the person physically signs the paper notice to appear or, in the  
10 case of an electronic citation, verbally acknowledges that the person  
11 promises to appear on or before the date set at or with the designated court.  
12 To secure a verbal promise to appear, the law enforcement officer shall  
13 ask, "Do you agree to appear at the \_\_\_\_\_ court on or before (date) ?"  
14 The officer shall accurately record the response of the person being  
15 charged as: Yes, no or no response.

16 (e) This section shall be a part of and supplemental to the code for  
17 enforcement of county codes and resolutions.

18 Sec. 4. K.S.A. 2022 Supp. 21-5102 is hereby amended to read as  
19 follows: 21-5102. A crime is an act or omission defined by law and for  
20 which, upon conviction, a sentence of death, imprisonment or fine, or both  
21 imprisonment and fine, is authorized or, in the case of a traffic infraction  
22 or a cigarette or tobacco infraction, a fine is authorized. Crimes are  
23 classified as felonies, misdemeanors, traffic infractions and cigarette or  
24 tobacco infractions.

25 (a) A felony is a crime punishable by death or by imprisonment in  
26 any state correctional institution or a crime which is defined as a felony by  
27 law.

28 (b) A traffic infraction is a violation of any of the statutory provisions  
29 listed in ~~subsection (c) of~~ K.S.A. 8-2118(c), and amendments thereto.

30 (c) A cigarette or tobacco infraction is a violation of K.S.A. 2022  
31 Supp. 21-6109 through 21-6114 and 21-6116 ~~and subsection (m) or (n) of~~  
32 ~~K.S.A. 79-3321~~, and amendments thereto.

33 (d) All other crimes are misdemeanors.

34 Sec. 5. K.S.A. 28-172a is hereby amended to read as follows: 28-  
35 172a. (a) Except as otherwise provided in this section, whenever the  
36 prosecuting witness or defendant is adjudged to pay the costs in a criminal  
37 proceeding in any county, a docket fee shall be taxed as follows:

38 Murder or manslaughter.....	\$180.50
39 Other felony.....	171.00
40 Misdemeanor.....	136.00
41 Forfeited recognizance.....	72.50
42 Appeals from other courts.....	72.50

43 (b) (1) Except as provided in paragraph (2), in actions involving the

1 violation of any of the laws of this state regulating traffic on highways,  
2 including those listed in K.S.A. 8-2118(c), and amendments thereto, a  
3 cigarette or tobacco infraction, any act declared a crime pursuant to the  
4 statutes contained in chapter 32 of the Kansas Statutes Annotated, and  
5 amendments thereto, or any act declared a crime pursuant to the statutes  
6 contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and  
7 amendments thereto, whenever the prosecuting witness or defendant is  
8 adjudged to pay the costs in the action, a docket fee of \$86 shall be  
9 charged. When an action is disposed of under K.S.A. 8-2118(a) and (b), ~~or~~  
10 ~~K.S.A. 79-3393(f)~~, and amendments thereto, the docket fee to be paid as  
11 court costs shall be \$86.

12 (2) In actions involving the violation of a moving traffic violation  
13 under K.S.A. 8-2118, and amendments thereto, as defined by rules and  
14 regulations adopted under K.S.A. 8-249, and amendments thereto,  
15 whenever the prosecuting witness or defendant is adjudged to pay the costs  
16 in the action, a docket fee of \$86 shall be charged. When an action is  
17 disposed of under K.S.A. 8-2118(a) and (b), and amendments thereto, the  
18 docket fee to be paid as court costs shall be \$86.

19 (c) If a conviction is on more than one count, the docket fee shall be  
20 the highest one applicable to any one of the counts. The prosecuting  
21 witness or defendant, if assessed the costs, shall pay only one fee. Multiple  
22 defendants shall each pay one fee.

23 (d) Statutory charges made pursuant to the provisions of K.S.A. 20-  
24 362, and amendments thereto, shall be paid from the docket fee; the family  
25 violence and child abuse and neglect assistance and prevention fund fee  
26 shall be paid from criminal proceedings docket fees. All other fees and  
27 expenses to be assessed as additional court costs shall be approved by the  
28 court, unless specifically fixed by statute. Additional fees shall include, but  
29 are not limited to, fees for Kansas bureau of investigation forensic or  
30 laboratory analyses, fees for detention facility processing pursuant to  
31 K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault  
32 evidence collection kit, fees for conducting an examination of a sexual  
33 assault victim, fees for service of process outside the state, witness fees,  
34 fees for transcripts and depositions, costs from other courts, doctors' fees  
35 and examination and evaluation fees. No sheriff in this state shall charge  
36 any district court of this state a fee or mileage for serving any paper or  
37 process.

38 (e) In each case charging a violation of the laws relating to parking of  
39 motor vehicles on the statehouse grounds or other state-owned or operated  
40 property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and  
41 amendments thereto, or as specified in K.S.A. 75-4508, and amendments  
42 thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs  
43 in the case, except that witness fees, mileage and expenses incurred in

1 serving a warrant shall be in addition to the fee. Appearance bond for a  
2 parking violation of K.S.A. 75-4508 or 75-4510a, and amendments  
3 thereto, shall be \$3, unless a warrant is issued. The judge may order the  
4 bond forfeited upon the defendant's failure to appear, and \$2 of any bond  
5 so forfeited shall be regarded as court costs.

6 (f) Except as provided further, the docket fee established in this  
7 section shall be the only fee collected or moneys in the nature of a fee  
8 collected for the docket fee. Such fee shall only be established by an act of  
9 the legislature and no other authority is established by law or otherwise to  
10 collect a fee. On and after July 1, 2019, through June 30, 2025, the  
11 supreme court may impose an additional charge, not to exceed \$22 per  
12 docket fee, to fund the costs of non-judicial personnel.

13 Sec. 6. K.S.A. 2022 Supp. 50-6a14 is hereby amended to read as  
14 follows: 50-6a14. (a) In addition to or in lieu of any other civil or criminal  
15 remedy provided by law, the director or the director's designee, upon a  
16 finding that a stamping agent has violated ~~subsection (a) of~~ K.S.A. 50-  
17 6a04(a), and amendments thereto, or any rules or regulations adopted  
18 pursuant to this act, may revoke or suspend the license of any licensee in  
19 the manner provided by K.S.A. 79-3309, and amendments thereto. Each  
20 package of cigarettes to which tax indicia is affixed, is caused to be affixed  
21 or tax is paid thereupon, and each sale or offer to sell cigarettes in  
22 violation of ~~subsection (a) of~~ K.S.A. 50-6a04(a), and amendments thereto,  
23 shall constitute a separate violation. The director may also impose a civil  
24 penalty in an amount not to exceed the greater of 500% of the retail value  
25 of the cigarettes involved or \$5,000 upon a finding of violation of  
26 ~~subsection (a) of~~ K.S.A. 50-6a04(a), and amendments thereto, or a  
27 violation of any rules or regulations adopted pursuant to this act. Such fine  
28 shall be imposed in the manner provided by K.S.A. 79-3391, and  
29 amendments thereto. Any fine collected pursuant to this subsection shall  
30 be remitted to the state treasurer in accordance with the provisions of  
31 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
32 remittance, the state treasurer shall deposit the entire amount in the state  
33 treasury to the credit of the cigarette and tobacco products regulation fund  
34 created pursuant to ~~subsection (e) of~~ K.S.A. 79-3391, and amendments  
35 thereto. The moneys credited to this fund shall be used for the purposes of  
36 enforcement of this act, or K.S.A. 79-3301 et seq., and amendments  
37 thereto.

38 (b) The attorney general or the attorney general's duly authorized  
39 designee shall, when requested by the director, assist the director in a  
40 hearing to suspend or revoke a stamping agent's license for a violation of  
41 this act.

42 Sec. 7. K.S.A. 2022 Supp. 50-6a17 is hereby amended to read as  
43 follows: 50-6a17. (a) Any violation of this act involving the sale or

1 attempted sale of cigarettes by a stamping agent to a retail dealer, vending  
 2 machine operator or consumer, or by a retail dealer or vending machine  
 3 operator to a consumer, shall constitute an unlawful and deceptive trade  
 4 practice as provided in K.S.A. 50-626, and amendments thereto, and shall  
 5 be subject to the penalties provided for in K.S.A. 50-623 et seq., and  
 6 amendments thereto, in lieu of or in addition to any penalties provided in  
 7 this act.

8 (b) For purposes of this section, a stamping agent shall be deemed a  
 9 "supplier" for purposes of a consumer transaction, as defined in ~~subsection~~  
 10 ~~(e)~~ of K.S.A. 50-624(c), and amendments thereto, regardless of whether  
 11 the stamping agent sells to a retail dealer or consumer.

12 (c) If a court determines that a person has violated this act, the court  
 13 shall order any profits, gains, gross receipts or other benefit from the  
 14 violation be surrendered. Any profits, gains, gross receipts or other benefit  
 15 surrendered from the violation shall be collected pursuant to this  
 16 subsection and shall be remitted to the state treasurer in accordance with  
 17 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
 18 of each such remittance, the state treasurer shall deposit the entire amount  
 19 in the state treasury to the credit of the cigarette and tobacco products  
 20 regulation fund created pursuant to ~~subsection (e)~~ of K.S.A. 79-3391, and  
 21 amendments thereto.

22 (d) Unless otherwise expressly provided, the remedies or penalties  
 23 provided by this act are cumulative to each other and to the remedies or  
 24 penalties under all other laws of this state.

25 Sec. 8. K.S.A. 79-3301 is hereby amended to read as follows: 79-  
 26 3301. As used in K.S.A. 79-3301 et seq., and amendments thereto:

27 (a) "Act" means the Kansas cigarette and tobacco products act.

28 (b) "Carrier" means one who transports cigarettes from a  
 29 manufacturer to a wholesale dealer or from one wholesale dealer to  
 30 another.

31 (c) "Carton" means the container used by the manufacturer of  
 32 cigarettes in which no more than 10 packages of cigarettes are placed prior  
 33 to shipment from such manufacturer.

34 (d) "Cigarette" means any roll for smoking, made wholly or in part of  
 35 tobacco, irrespective of size or shape, and irrespective of tobacco being  
 36 flavored, adulterated or mixed with any other ingredient if the wrapper is  
 37 in greater part made of any material except tobacco.

38 (e) "Conspicuous location or place" means a location or place  
 39 available to the general public.

40 (f) "Consumer" means the person purchasing or receiving *or*  
 41 *attempting to purchase or receive* cigarettes or tobacco products for final  
 42 use.

43 (g) "Contracting entity" means any public or private person, firm or

1 entity that has entered into a contract with the secretary of revenue to  
2 provide services.

3 (h) "Dealer" means any person who engages in the sale or  
4 manufacture of cigarettes; *or* tobacco products ~~or electronic cigarettes~~ in  
5 the state of Kansas; and who is required to be licensed under the  
6 provisions of this act.

7 (i) "Dealer establishment" means any location or premises, other than  
8 vending machine locations, at or from which cigarettes; *or* tobacco  
9 products ~~or electronic cigarettes~~ are sold; and where records are kept.

10 (j) "Director" means the director of taxation.

11 (k) "Distributor" means:

12 (1) Any person engaged in the business of selling tobacco products in  
13 this state who brings, or causes to be brought, into this state from outside  
14 the state any tobacco products for sale;

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

17 (3) any person engaged in the business of selling tobacco products  
18 outside this state who ships or transports tobacco products to any person in  
19 the business of selling tobacco products in this state.

20 (l) "Division" means the division of taxation.

21 (m) (1) "Electronic cigarette" means ~~a battery-powered device,~~  
22 ~~whether or not such device is shaped like a cigarette, that can provide~~  
23 ~~inhaled doses of nicotine by delivering a vaporized solution by means of~~  
24 ~~cartridges or other chemical delivery systems~~ *any device that can be used*  
25 *to deliver an aerosolized or vaporized substance to the person inhaling*  
26 *from the device, including, but not limited to, an e-cigarette, e-cigar, e-*  
27 *pipe, vape pen or e-hookah. "Electronic cigarette" includes any*  
28 *component, part or accessory of such a device and any substance intended*  
29 *to be aerosolized or vaporized during use of the device, whether or not*  
30 *such component, part, accessory or substance is sold separately from the*  
31 *device.*

32 (2) *"Electronic cigarette" does not include drugs, devices or*  
33 *combination products authorized for sale by the food and drug*  
34 *administration. The terms "drug" and "device" mean the same as such*  
35 *terms are defined in 21 U.S.C. § 321. The term "combination product"*  
36 *means the same as defined in 21 C.F.R. § 3.2.*

37 (n) "Importer" means the same as provided in 26 U.S.C. § 5702(k).

38 (o) "License" means the privilege of a licensee to sell cigarettes or  
39 tobacco products in the state of Kansas, and the written evidence of such  
40 authority or privilege as issued by the director.

41 (p) "Licensee" means any person holding a current license issued  
42 pursuant to this act.

43 (q) "Manufacturer" means the same as provided in 26 U.S.C. §

1 5702(d).

2 (r) "Manufacturer's salesperson" means a person employed by a  
3 cigarette manufacturer who sells cigarettes, manufactured by such  
4 employer and procured from wholesale dealers.

5 (s) (1) "Package" means a container in which no more than 25  
6 individual cigarettes are wrapped and sealed by the manufacturer of  
7 cigarettes prior to shipment to a wholesale dealer; *or*

8 (2) for the purposes of K.S.A. 79-3321~~(v)~~ and ~~(w)~~(r) and (s), and  
9 amendments thereto, "package" means the same as provided in 15 U.S.C.  
10 § 1332(4).

11 (t) "Person" means any individual, partnership, society, association,  
12 joint-stock company, corporation, estate, receiver, trustee, assignee, referee  
13 or any other person acting in a fiduciary or representative capacity whether  
14 appointed by a court or otherwise and any combination of individuals.

15 (u) "Received" means the coming to rest of cigarettes for sale by any  
16 dealer in the state of Kansas.

17 (v) "Retail dealer" or "retailers" means a person, other than a vending  
18 machine operator, in possession of cigarettes or ~~electronic cigarettes~~  
19 *tobacco products* for the purpose of sale to a consumer.

20 (w) "Sale" means ~~any transfer of title or possession or both,~~  
21 ~~exchange, barter, distribution or gift of cigarettes, tobacco products or~~  
22 ~~electronic cigarettes, with or without consideration to furnish, give or~~  
23 ~~provide or to attempt to furnish, give or provide cigarettes or tobacco~~  
24 ~~products either gratuitously or for any form of compensation.~~

25 (x) "Sample" means cigarettes or tobacco products distributed to  
26 members of the general public at no cost for purposes of promoting the  
27 product.

28 (y) (1) "Self-service display" means a display that:

29 (A) Contains cigarettes or tobacco products ~~and~~;

30 (B) is located in an area openly accessible to a retail dealer's  
31 consumers, ~~and from which such~~;

32 (C) *provides* consumers ~~can readily~~ *ready* access to cigarettes or  
33 tobacco products without the assistance of a salesperson, ~~and which~~ *or the*  
34 *need for a direct person-to-person transfer between the consumer and a*  
35 *salesperson; and*

36 (D) is knowingly utilized by the retail dealer to market and sell  
37 cigarettes and tobacco products to consumers.

38 (2) "Self-service display" *does not include* a display case that holds  
39 cigarettes or tobacco products behind locked doors ~~does not constitute a~~  
40 ~~self-service display.~~

41 (z) "Stamps" means tax indicia applied by means of heat process,  
42 pressure or any other process approved by the director.

43 (aa) "Tax indicia" means visible evidence of tax payment in the form



1 of stamps.

2 (bb) *(1)* ~~"Tobacco products" means cigars, cheroots, stogies, periques;~~  
3 ~~granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco;~~  
4 ~~snuff, snuff flour, cavendish, plug and twist tobacco; fine cut and other~~  
5 ~~chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings~~  
6 ~~of tobacco, and other kinds and forms of tobacco, prepared in such manner~~  
7 ~~as to be suitable for chewing or smoking in a pipe or otherwise, or both for~~  
8 ~~chewing and smoking;~~

9 *(A)* Any product containing, made of or derived from tobacco or  
10 nicotine that is intended for human consumption or is likely to be  
11 consumed, whether inhaled, absorbed or ingested, by any means,  
12 including, but not limited to, cigars, pipe tobacco, chewing tobacco, snuff  
13 and snus;

14 *(B)* any electronic cigarette and any substance that may be  
15 aerosolized or vaporized by such device, whether or not such substance  
16 contains nicotine; and

17 *(C)* any component, part or accessory of any product described in  
18 subparagraph *(A)* or *(B)*, whether such component, part or accessory  
19 contains any tobacco or nicotine, including, but not limited to, filters,  
20 rolling papers, blunt or hemp wraps or pipes.

21 *(2)* "Tobacco products-~~de~~" does not include:

22 *(A)* Cigarettes; or

23 *(B)* any drugs, devices or combination products authorized for sale  
24 by the food and drug administration. The terms "drug" and "device" mean  
25 the same as such terms are defined in 21 U.S.C. § 321. The term  
26 "combination product" means the same as defined in 21 C.F.R. § 3.2.

27 *(cc)* "Tobacco specialty store" means a dealer establishment that  
28 derives at least 65% of such dealer establishment's revenue from cigarettes  
29 or tobacco products.

30 *(dd)* "Vending machine" means any coin operated machine,  
31 contrivance or device, by means of which merchandise may be sold.

32 *(ee)* "Vending machine distributor" means any person who sells  
33 cigarette or tobacco product vending machines to a vending machine  
34 operator operating vending machines in the state of Kansas.

35 *(ff)* "Vending machine operator" means any person who places a  
36 vending machine, owned, leased or operated by such person, at locations  
37 where cigarettes or tobacco products are sold from such vending machine.  
38 The owner or lessee of the premises upon which a vending machine is  
39 placed shall not be considered the operator of the machine, nor shall the  
40 owner or lessee, or any employee or agent of the owner or lessee be  
41 considered an authorized agent of the vending machine operator, if the  
42 owner or lessee does not own or lease the machine and the owner's or  
43 lessee's sole remuneration from the machine is a flat rental fee or

1 commission based upon the number or value of cigarettes *or tobacco*  
2 *products* sold from the machine, or a combination of both.

3 (gg) "Wholesale dealer" means any person who sells cigarettes to  
4 other wholesale dealers, retail dealers, vending machine operators and  
5 manufacturer's salespersons for the purpose of resale in the state of  
6 Kansas.

7 (hh) "Wholesale sales price" means the original net invoice price for  
8 which a manufacturer sells a tobacco product to a distributor, as shown by  
9 the manufacturer's original invoice.

10 Sec. 9. K.S.A. 79-3302 is hereby amended to read as follows: 79-  
11 3302. (a) K.S.A. 79-3301 through 79-3304, 79-3306, 79-3309, 79-3310,  
12 79-3311, ~~79-3311a~~, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321, 79-  
13 3322, 79-3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3333, 79-3335,  
14 79-3336, 79-3371, 79-3373, 79-3374, 79-3375, 79-3377, 79-3378, 79-  
15 3379, 79-3387, 79-3388, 79-3391, 79-3392, ~~79-3393~~, 79-3394 and K.S.A.  
16 ~~79-3311a, 79-3336~~, 79-3395 through 79-3399; and 79-33,100, and  
17 amendments thereto, *and section 1, and amendments thereto*, shall be  
18 known and may be cited as the Kansas cigarette and tobacco products act.

19 (b) It is the purpose and intent of this act to regulate the sale of  
20 cigarettes and tobacco products in this state and, *where applicable*, to  
21 impose a tax thereon.

22 Sec. 10. K.S.A. 79-3303 is hereby amended to read as follows: 79-  
23 3303. (a) Each person engaged in the business of selling cigarettes or  
24 ~~electronic cigarettes~~ *tobacco products* in the state of Kansas and each  
25 vending machine distributor shall obtain a license as provided by this act.  
26 A separate application, license and fee is required for each dealer  
27 establishment owned or operated by a dealer. A vending machine operator  
28 is required to obtain a vending machine operator's master license and, in  
29 addition, a separate permit for each vending machine operated by the  
30 operator. A vending machine operator may submit one application for the  
31 vending machine operator's master license and all permits for vending  
32 machines operated by the operator. The license shall be displayed in the  
33 dealer establishment and the vending machine permit shall remain securely  
34 and visibly attached to the vending machine and contain such information  
35 as the director may require. Any vending machine found without such  
36 permit attached to the machine shall be sealed by an agent of the director  
37 and such seal shall be removed only by an agent of the director after  
38 payment of the permit fee and the penalties provided by this act.

39 (b) The application for a vending machine operator's master license  
40 and vending machine permits shall list the brand name and serial number  
41 of each machine and such other information as required by the director.  
42 Except in accordance with proper judicial order or as otherwise provided  
43 by law, it shall be unlawful for any officer or employee of the division to

1 divulge or make known in any way the location of any vending machine to  
2 any person not an officer or employee of the division or contracting entity  
3 of the division, where the division has determined disclosure of such  
4 information is essential for completion of the contract and has taken  
5 appropriate steps to preserve confidentiality, except that such information  
6 may be divulged to any law enforcement officer for use in the officer's  
7 official duties. Any officer, employee or contracting entity revealing any  
8 such location in violation of this provision, in addition to the penalties  
9 otherwise provided in this act, shall be dismissed from office.

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

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

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

32 (f) On or before the 10<sup>th</sup> day of each month, each vending machine  
33 distributor shall report to the director, on forms provided by the director,  
34 all sales of cigarette vending machines by the distributor to persons in the  
35 state of Kansas during the preceding month; the name and address of the  
36 purchaser; and the brand name, serial number and sale price of the  
37 machines.

38 (g) Concurrently with a change in ownership of a dealer  
39 establishment the license applicable to the establishment is void and shall  
40 be surrendered to the director and shall not be transferred. On removal of a  
41 dealer establishment from one location to another, the owner of the  
42 establishment shall notify the director and surrender the owner's license.  
43 The director shall issue a new license for the unexpired term of the

1 surrendered license on payment of a fee of \$2. If a dealer's license is lost,  
2 stolen or destroyed, the director may issue a new license on proof of loss,  
3 theft or destruction, at a cost of \$2. The director shall remit all moneys  
4 received under this subsection to the state treasurer in accordance with the  
5 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
6 each such remittance, the state treasurer shall deposit the entire amount in  
7 the state treasury to the credit of the state general fund.

8 Sec. 11. K.S.A. 79-3304 is hereby amended to read as follows: 79-  
9 3304. (a) The license fee for each biennium or portion thereof shall be as  
10 follows:

11 (1) For retail dealer's license, ~~\$25~~ \$50 for each dealer establishment.

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

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

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

18 (5) For wholesale dealer's license, \$50 for each dealer establishment.  
19 No wholesale dealer's license shall be issued until the person applying  
20 therefor has filed with the director a bond payable to the state of Kansas in  
21 such an amount as shall be fixed by the director, but in no event less than  
22 \$1,000, with a corporate surety authorized to do business in the state of  
23 Kansas, and approved by the director. If a wholesale dealer is unable to  
24 secure a corporate surety bond, the director may issue a license to such  
25 wholesale dealer, upon the wholesale dealer furnishing a personal bond  
26 meeting the approval of the director. Such bond shall be conditioned on the  
27 wholesale dealer's compliance with all the provisions of this act during the  
28 license period.

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

30 (7) For manufacturer's salesperson license, \$20 for each salesperson.  
31 The manufacturer's salesperson shall, with respect to each sale made to a  
32 retail dealer, make and deliver to the retail dealer a true invoice wherein  
33 such salesperson shall insert the name of the wholesale dealer from whom  
34 such salesperson secured such cigarettes, together with such salesperson's  
35 own name and the name of the retail dealer purchasing the cigarettes.

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

37 (9) For vending machine permit, ~~\$25~~ \$50 for each permit.

38 (b) An application for any license required under the provisions of  
39 this act ~~may~~ shall be refused to:

40 (1) A person who is not of good character and reputation in the  
41 community in which such person resides; or

42 (2) a person who has been convicted of a felony or of any crime  
43 involving moral turpitude or of the violation of any law of any state or the

1 United States pertaining to cigarettes or tobacco products and who has not  
 2 completed the sentence, parole, probation or assignment to a community  
 3 correctional services program imposed for any such conviction within two  
 4 years immediately preceding the date of making application for any of  
 5 such licenses.

6 (c) The director may refuse to issue or renew a license to any person  
 7 who:

8 (1) Has been convicted on or after January 1, 2013, of a felony under  
 9 the laws of this state or any other state or the United States;

10 (2) is not current in the payment of any tax or fine under this act;

11 (3) has had a cigarette *or tobacco product* license revoked in this state  
 12 or any other state;

13 (4) is not at least ~~18~~ 21 years of age;

14 (5) intends to carry on the business as an agent of another;

15 (6) at the time of application for renewal of any license issued under  
 16 this act, would not be eligible for the license upon first application;

17 (7) does not own the premises for which a license is sought, or does  
 18 not, at the time of the application, have a written lease;

19 (8) has been convicted of a crime involving any tax under this act;

20 (9) is a corporation in which any officer, manager or director thereof,  
 21 or any stockholder owning in the aggregate more than 5% of the common  
 22 or preferred stock of such corporation, has been an officer, manager or  
 23 director or stockholder owning in the aggregate more than 5% of the  
 24 common or preferred stock, of a corporation that:

25 (A) Has had a license revoked under this act; or

26 (B) has been convicted of a crime involving any tax under this act; or

27 (10) is a limited liability company in which any officer, manager or  
 28 director thereof, or any member owning in the aggregate more than 5% of  
 29 the limited liability company, has been an officer, manager or director or  
 30 stockholder owning in the aggregate more than 5% of the common or  
 31 preferred stock, of a corporation that:

32 (A) Has had a license revoked under this act; or

33 (B) has been convicted of a crime involving any tax under this act.

34 Sec. 12. K.S.A. 79-3309 is hereby amended to read as follows: 79-  
 35 3309. (a) Whenever the director has reason to believe that any person  
 36 licensed under this act has violated any of the provisions of this act; in any  
 37 of the following ways, the director shall notify the person by certified mail  
 38 of the director's intention to suspend or revoke the person's license or  
 39 licenses, if the person:

40 (1) Has been convicted on or after January 1, 2013, of a felony under  
 41 the laws of this state or any other state or the United States;

42 (2) is not current in the payment of any tax or fine under this act;

43 (3) has had a cigarette *or tobacco product* license revoked in this state

1 or any other state;

2 (4) is not at least ~~18~~ 21 years of age;

3 (5) intends to carry on the business as an agent of another;

4 (6) at the time of application for renewal of any license issued under  
5 this act, would not be eligible for the license upon first application;

6 (7) does not own the premises for which a license is sought, or does  
7 not, at the time of the application, have a written lease;

8 (8) has been convicted of a crime involving any tax under this act;

9 (9) in the case of a corporation, any officer, manager or director  
10 thereof, or any stockholder owning in the aggregate more than 5% of the  
11 common or preferred stock of such corporation, has been an officer,  
12 manager or director or stockholder owning in the aggregate more than 5%  
13 of the common or preferred stock, of a corporation that:

14 (A) Has had a license revoked under this act; or

15 (B) has been convicted of a crime involving any tax under this act; ~~or~~

16 (10) in the case of a limited liability company, any officer, manager or  
17 director thereof, or any member owning in the aggregate more than 5% of  
18 the limited liability company, has been an officer, manager or director or  
19 stockholder owning in the aggregate more than 5% of the common or  
20 preferred stock, of a corporation that:

21 (A) Has had a license revoked under this act; or

22 (B) has been convicted of a crime involving any tax under this act; *or*

23 (11) *is a cigarette or tobacco product retailer and has been convicted*  
24 *of not fewer than two violations of K.S.A. 79-3321(l), (r), (s), (t) or (u),*  
25 *and amendments thereto.*

26 (b) (1) *The director shall suspend the license of any person convicted*  
27 *of two violations of K.S.A. 79-3321(l), (r), (s), (t) or (u), and amendments*  
28 *thereto, within a three-year period for not fewer than seven days.*

29 (2) *The director shall suspend the license of any person convicted of*  
30 *three violations of K.S.A. 79-3321(l), (r), (s), (t) or (u), and amendments*  
31 *thereto, within a three-year period for not fewer than 30 days.*

32 (3) *The director shall revoke the license of any person convicted of*  
33 *four or more violations of K.S.A. 79-3321(l), (r), (s), (t) or (u), and*  
34 *amendments thereto, within a three-year period. No license shall be*  
35 *subsequently issued to such person for a period of three years from the*  
36 *date of revocation.*

37 (c) Within 30 days after the mailing of the notice, the person may  
38 request a hearing in writing before the director. The hearing shall be  
39 conducted in accordance with the provisions of the Kansas administrative  
40 procedure act. If, after such hearing, it appears to the satisfaction of the  
41 director that the person has violated any of the provisions of this act, the  
42 director is hereby authorized and empowered to suspend or revoke the  
43 person's license or licenses and may in addition deny the application of the

1 person for a license or licenses for a portion of the succeeding calendar  
2 year for such period as the director determines is necessary, but in no case  
3 for a period ending more than one year following the date upon which the  
4 license or licenses were suspended or revoked. The suspension or  
5 revocation of a vending machine operator's master license shall suspend or  
6 revoke all vending machine permits issued to the vending machine  
7 operator for the term of the license suspension or revocation.

8 ~~(e)~~(d) If a person continues to engage in activities requiring a license  
9 under this act after having notice or knowledge of the suspension or  
10 revocation of the person's license or licenses or after becoming more than  
11 10 days delinquent in filing a bond payable to the state of Kansas as  
12 required by the director, payment of any fine, tax, penalty or interest  
13 imposed pursuant to this act, the state shall be entitled, in any proceedings  
14 brought for such purposes, to have an order and judgment restraining and  
15 enjoining such unlawful sale and no bond shall be required for the  
16 issuance of any such restraining order or injunction.

17 Sec. 13. K.S.A. 79-3321 is hereby amended to read as follows: 79-  
18 3321. It shall be unlawful for any person:

19 (a) Except as otherwise specifically provided by this act, to possess,  
20 sell, transport, import, distribute, wholesale or manufacture more than  
21 1,000 cigarettes without the required tax indicia being affixed as herein  
22 provided.

23 (b) To mutilate or attach to any individual package of cigarettes any  
24 stamp that has in any manner been mutilated or that has been heretofore  
25 attached to a different individual package of cigarettes or to have in  
26 possession any stamps so mutilated.

27 (c) To prevent the director or any officer or agent authorized by law,  
28 ~~to make from making~~ a full inspection for the ~~purpose~~ *purposes* of this act,  
29 of any place of business and all premises connected thereto where  
30 cigarettes *or tobacco products* are or may be manufactured, sold,  
31 distributed; or given away.

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

35 (e) Who is a dealer to fail to produce on demand of the director or  
36 any officer or agent authorized by law any records or invoices required to  
37 be kept by such person.

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

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

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

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

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

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

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

13 (k) To vend small cigars, or any products ~~so wrapped that are~~  
14 ~~wrapped in such a manner~~ as to be confused with cigarettes, from a  
15 ~~machine vending cigarettes~~ *cigarette vending machine*, nor shall a vending  
16 machine ~~be so~~ built to vend cigars or *any* products that may be confused  
17 with cigarettes; be attached to a cigarette vending machine.

18 (l) To sell, furnish or distribute cigarettes, ~~electronic cigarettes~~ or  
19 tobacco products to any person under ~~18~~ 21 years of age.

20 (m) ~~Who is under 18 years of age to purchase or attempt to purchase~~  
21 ~~cigarettes, electronic cigarettes or tobacco products.~~

22 (n) ~~Who is under 18 years of age to possess or attempt to possess~~  
23 ~~cigarettes, electronic cigarettes or tobacco products~~ *Who is a retail dealer*  
24 *to sell, furnish or distribute cigarettes or tobacco products unless such*  
25 *retail dealer or such dealer's employee or agent verifies that the individual*  
26 *purchasing cigarettes or tobacco products is not under 21 years of age by*  
27 *examining such individual's government-issued photographic*  
28 *identification.*

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

32 ~~(o)~~ To sell cigarettes *or tobacco products* without having a license  
33 for such sale as provided herein.

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

36 ~~(q)~~ Who is a retail dealer to fail to post and maintain in a  
37 conspicuous place in the dealer's establishment the following notice: "By  
38 law, cigarettes, electronic cigarettes and tobacco products may be sold only  
39 to persons ~~18~~ 21 years of age and older." *All notices shall be posted in a*  
40 *manner conspicuous to both employees and consumers, unobstructed from*  
41 *view in their entirety, and within six feet of each register where cigarettes*  
42 *or tobacco products are available for purchase. The notice shall be at*  
43 *least 14" by 11" and the words on the notice shall be legibly printed in a*



1 *high contrast red color with capitalized letters at least one inch high.*

2 ~~(s)(r)~~ To distribute samples ~~within 500 feet of any school when such~~  
3 ~~facility is being used primarily by~~ *except on premises where* persons under  
4 ~~18 21~~ years of age ~~unless the sampling is:~~

5 ~~(1) In an area to which persons under 18 years of age are denied~~  
6 ~~access;~~

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

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

11 ~~(t)(s)~~ To sell cigarettes, ~~electronic cigarettes~~ or tobacco products by  
12 means of a vending machine, including vending machines that sell  
13 packaged, single cigarettes, in any establishment, or portion of an  
14 establishment, ~~which that~~ is open to minors, ~~except that this subsection~~  
15 ~~shall not apply to:~~

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

20 ~~(2) the installation and use of a vending machine in a commercial~~  
21 ~~building or industrial plant, or portions thereof, where the public is not~~  
22 ~~customarily admitted and where machines are intended for the sole use of~~  
23 ~~adult employees employed in the building or plant~~ *persons under 21 years*  
24 *of age.*

25 ~~(u)(t)~~ To sell cigarettes, ~~electronic cigarettes~~ or tobacco products by  
26 means of a self-service display in any establishment, except that the  
27 provisions of this subsection shall not apply to:

28 (1) A vending machine that is permitted under subsection ~~(t)~~ (s);

29 (2) a self-service display that is located in a tobacco specialty store;  
30 or

31 (3) a self-service display located in a facility where the retailer  
32 ensures that no person ~~younger than 18~~ *under 21* years of age is present or  
33 permitted to enter at any time.

34 ~~(v)(u)~~ To sell or distribute in this state; to acquire, hold, own, possess  
35 or transport for sale or distribution in this state; or to import or cause to be  
36 imported, into this state for sale or distribution in this state:

37 (1) Any cigarettes, the package of which:

38 (A) Bears any statement, label, stamp, sticker or notice indicating that  
39 the manufacturer did not intend the cigarettes to be sold, distributed or  
40 used in the United States, including but not limited to, labels stating "For  
41 Export Only," "U.S. Tax-Exempt," "For Use Outside U.S." or similar  
42 wording; or

43 (B) does not comply with:

1 (i) All requirements imposed by or pursuant to federal law regarding  
 2 warnings and other information on packages of cigarettes manufactured,  
 3 packaged or imported for sale, distribution or use in the United States,  
 4 including but not limited to the precise warning labels specified in the  
 5 federal cigarette labeling and advertising act, 15 U.S.C. § 1333; and

6 (ii) all federal trademark and copyright laws;

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

10 (3) any cigarettes that such person otherwise knows or has reason to  
 11 know the manufacturer did not intend to be sold, distributed or used in the  
 12 United States; or

13 (4) any cigarettes for which there has not been submitted to the  
 14 secretary of the ~~U.S.~~ *United States* department of health and human  
 15 services the list or lists of the ingredients added to tobacco in the  
 16 manufacture of such cigarettes required by the federal cigarette labeling  
 17 and advertising act, 15 U.S.C. § 1335a.

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

20 (1) Any statement, label, stamp, sticker or notice described in  
 21 subsection ~~(v)~~ (u); or

22 (2) any health warning that is not specified in, or does not conform  
 23 with, the requirements of, the federal cigarette labeling and advertising act,  
 24 15 U.S.C. § 1333.

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

28 ~~(y)~~(x) To possess, sell, transport, import, distribute, wholesale or  
 29 manufacture cigarettes, ~~smokeless tobacco or roll-your-own~~ or tobacco  
 30 *products* in violation of K.S.A. 50-6a01 et seq., and amendments thereto.

31 ~~(z)~~(y) To sell cigarettes, ~~smokeless tobacco or roll-your-own~~ or  
 32 tobacco *products* in any manner that is not a direct, face-to-face exchange  
 33 between the retailer and the consumer, except:

34 (1) Mail-order sales, which shall not include mail-order redemption  
 35 coupons and distribution of free samples through the mail;

36 (2) vending machines as provided in subsection ~~(t)~~ (s); and

37 (3) self-service displays as provided in subsection ~~(u)~~ (t).

38 (z) *To permit a person under 21 years of age to enter the premises of*  
 39 *a tobacco specialty store.*

40 Sec. 14. K.S.A. 79-3322 is hereby amended to read as follows: 79-  
 41 3322. (a) (1) Except as otherwise provided in this act, a violation of K.S.A.  
 42 79-3321(a), (c), (d), (f), (h), (i), (j), ~~(v), (w), (x) or (y)~~ (u), (v), (w) or (x),  
 43 and amendments thereto, is a:

1 (A) Class A misdemeanor for a first violation, and the offender shall  
2 be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;

3 (B) severity level 6, nonperson felony for a second violation, and the  
4 offender shall be fined not less than \$50,000 nor more than \$100,000 upon  
5 a second conviction; and

6 (C) severity level 6, nonperson felony for a third and all subsequent  
7 violations, and the offender shall be fined \$100,000 upon a third and all  
8 subsequent convictions.

9 (2) It shall be a defense to prosecution under K.S.A. 79-3321(a), and  
10 amendments thereto, that a licensee has:

11 (A) Segregated the cigarettes from public view;

12 (B) marked the cigarettes as not for retail sale to consumers; and

13 (C) within 72 hours of receipt, notified the licensee's wholesale  
14 dealer, in writing, that the cigarettes do not bear indicia of Kansas tax and  
15 that the wholesale dealer shall remove the cigarettes from the licensee's  
16 premises.

17 (b) Except as provided in subsections (a), (c) ~~or~~ and (d), a violation of  
18 K.S.A. 79-3321, and amendments thereto, is a class B misdemeanor and  
19 upon conviction, an offender shall be fined not less than \$500 nor more  
20 than \$1,000 or imprisoned for not more than one year, or both for each  
21 separate violation. In addition thereto any person found liable for any  
22 license fee or tax imposed under the provisions of this act shall be  
23 personally liable for such license fee or tax plus a penalty in an amount  
24 equal to 100% thereof.

25 (c) (1) ~~Except as otherwise provided, violation of K.S.A. 79-3321(l),~~  
26 ~~(r), (s), (t) or (u), and amendments thereto, by a retail dealer is a class B~~  
27 ~~person misdemeanor punishable by a minimum fine of \$200 for any~~  
28 ~~person to:~~

29 (A) ~~Sell, give or furnish any cigarettes or tobacco products to any~~  
30 ~~person under 18 years of age Not less than \$500 for a first offense; or~~

31 (B) ~~buy any cigarettes or tobacco products for any person under 18~~  
32 ~~years of age not less than \$750 for a second offense within a three-year~~  
33 ~~period; and~~

34 (C) ~~not less than \$1,000 for a third or subsequent offense within a~~  
35 ~~three-year period.~~

36 (2) ~~A violation of K.S.A. 79-3321(l) or (s), and amendments thereto,~~  
37 ~~by a person who is an employee or agent of a retail dealer but who is not a~~  
38 ~~manager shall be a tobacco infraction punishable by a fine of \$25.~~

39 (3) It shall be a defense to a prosecution under this subsection if:

40 (A) The defendant is a licensed retail dealer, or employee thereof, or  
41 a person authorized by law to distribute samples;

42 (B) the defendant sold, furnished or distributed the cigarettes or  
43 tobacco products to the person under ~~18~~ 21 years of age with reasonable

1 cause to believe the person was of legal age to purchase or receive  
2 cigarettes or tobacco products; and

3 (C) to purchase or receive the cigarettes or tobacco products, the  
4 person under ~~18~~ 21 years of age exhibited to the defendant a driver's  
5 license, Kansas nondriver's identification card or other official or  
6 apparently official document containing a photograph of the person and  
7 purporting to establish that the person was of legal age to purchase or  
8 receive cigarettes or tobacco products.

9 ~~(3)~~(4) It shall be a defense to a prosecution under this subsection if:

10 (A) The defendant engages in the lawful sale, furnishing or  
11 distribution of cigarettes or tobacco products by mail; and

12 (B) the defendant sold, furnished or distributed the cigarettes or  
13 tobacco products to the person by mail only after the person had provided  
14 to the defendant an unsworn declaration, conforming to K.S.A. 53-601,  
15 and amendments thereto, that the person was ~~18~~ 21 or more years of age.

16 ~~(4) For purposes of this subsection the person who violates this~~  
17 ~~subsection shall be the individual directly selling, furnishing or~~  
18 ~~distributing the cigarettes or tobacco products to any person under 18 years~~  
19 ~~of age or the retail dealer who has actual knowledge of such selling,~~  
20 ~~furnishing or distributing by such individual or both.~~

21 ~~(d) Violation of K.S.A. 79-3321(m) or (n), and amendments thereto,~~  
22 ~~is a cigarette or tobacco infraction for which the fine is \$25. In addition,~~  
23 ~~the judge may require the juvenile to appear in court with a parent or legal~~  
24 ~~guardian.~~

25 ~~(e) Any agent, employees or others who aid, abet or otherwise~~  
26 ~~participate in any way in the violation of the Kansas cigarette and tobacco~~  
27 ~~products act or in any of the offenses hereunder punishable shall be guilty~~  
28 ~~and punished as principals to the same extent as any person violating this~~  
29 ~~act.~~

30 ~~(f)~~(d) *Nothing in this section shall be construed to prohibit the*  
31 *provision of cigarettes or tobacco products to any person as part of an*  
32 *indigenous practice or a lawfully recognized religious, spiritual or*  
33 *cultural ceremony or practice.*

34 (e) The secretary of revenue or the secretary's authorized agent may  
35 refer such evidence as may be available concerning violations of this act or  
36 any rules and regulations or order hereunder to the attorney general or the  
37 proper county or district attorney, who may in the prosecutor's discretion,  
38 with or without such a reference, institute the appropriate criminal  
39 proceedings under this act. Upon receipt of such reference, the attorney  
40 general or the county attorney or district attorney may request that a duly  
41 employed attorney of the department of revenue prosecute or assist in the  
42 prosecution of such violation or violations on behalf of the state. Upon  
43 approval of the secretary or the secretary's authorized agent, such

1 employee shall be appointed a special prosecutor for the attorney general  
 2 or the county attorney or district attorney to serve without compensation  
 3 from the attorney general or the county attorney or district attorney. Such  
 4 special prosecutor shall have all the powers and duties prescribed by law  
 5 for assistant attorneys general or assistant county or district attorneys and  
 6 such other powers and duties as are lawfully delegated to such special  
 7 prosecutor by the attorney general or the county attorney or district  
 8 attorney. If an attorney employed by the secretary or secretary's authorized  
 9 agent acts as a special prosecutor, the secretary may pay extradition and  
 10 witness expenses associated with the case.

11 Sec. 15. K.S.A. 79-3323 is hereby amended to read as follows: 79-  
 12 3323. (a) (1) Except as provided in subsection (c), the following are  
 13 declared to be common nuisances and contraband:

14 ~~(A)~~(A) All packages of cigarettes, in quantities of 20 packages or  
 15 more, not bearing indicia of tax payment as required in this act and all  
 16 devices for vending cigarettes in which unstamped packages are found;

17 ~~(B)~~(B) all packages of cigarettes, in quantities of 20 packages or  
 18 more, not bearing indicia of tax payment as required by any compact  
 19 between:

20 ~~(A)~~(i) The governor and the Prairie Band Potawatomi Nation and  
 21 approved by the legislature;

22 ~~(B)~~(ii) the governor and the Iowa Tribe of Kansas and Nebraska and  
 23 approved by the legislature;

24 ~~(C)~~(iii) the governor and the Kickapoo Tribe in Kansas and approved  
 25 by the legislature; or

26 ~~(D)~~(iv) the governor and the Sac and Fox Nation of Missouri in  
 27 Kansas and Nebraska and approved by the legislature;

28 ~~(C)~~(C) all cigarettes or tobacco products in the possession of a ~~minor~~  
 29 *person under 21 years of age*;

30 ~~(4)~~(D) cigarettes, ~~smokeless tobacco or roll-your-own~~ or tobacco  
 31 *products* in violation of K.S.A. 50-6a01 et seq., and amendments thereto;  
 32 and

33 ~~(5)~~(E) all property, including vehicles, used in the sale, transportation,  
 34 distribution, importation, wholesale or manufacture of unstamped  
 35 packages of cigarettes.

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

39 (b) Any cigarettes, *tobacco products* or property constituting a  
 40 common nuisance and contraband as provided by this section may be  
 41 seized by the director or the director's authorized agent or any duly  
 42 constituted peace officer with or without process or warrant and shall be  
 43 subject to forfeiture as provided in this act. The party making the seizure

1 shall deliver to the owner of the property and to the person or persons  
2 found in possession of the property a receipt stating from whom the  
3 property was seized, the place of seizure and a description and the brand of  
4 the property seized. A duplicate of the receipt shall be filed in the office of  
5 the director and shall be open for public inspection.

6 (c) Cigarettes in quantities of 1,000 or less in the possession of a  
7 licensee are not declared a common nuisance and contraband if the  
8 licensee has:

9 (1) Segregated the cigarettes from public view;

10 (2) marked the cigarettes as not for retail sale to consumers; and

11 (3) within 72 hours of receipt, notified the licensee's wholesale dealer,  
12 in writing, that the cigarettes do not bear indicia of Kansas tax and that the  
13 wholesale dealer shall remove the cigarettes from the licensee's premises.

14 Sec. 16. K.S.A. 79-3324a is hereby amended to read as follows: 79-  
15 3324a. (a) All of the cigarettes, *tobacco products* and property seized by  
16 the director or the director's authorized agent shall first be listed and  
17 appraised by the person making the seizure; and turned over to the director  
18 and a receipt taken. The person making the seizure shall immediately make  
19 and file a written report showing the name of the person making the  
20 seizure, the place where, and the person from whom the property was  
21 seized, and inventory and appraisal thereof, at the usual and ordinary  
22 wholesale price of the articles received by the director of taxation. The  
23 director shall institute forfeiture proceedings within the department of  
24 revenue in the name of the state of Kansas, as plaintiff, and in the name of  
25 the owner or person in possession, as defendant, if known, and if  
26 unknown, in the name of the property seized. The director shall issue  
27 notice to the owner or person in whose possession such property was  
28 found, directing such person to answer within 10 days. The forfeiture  
29 hearing under this subsection shall be conducted in accordance with the  
30 provisions of the Kansas administrative procedure act. If the property is  
31 declared forfeited and ordered sold, notice of the sale shall be posted in the  
32 official newspaper of Shawnee county, Kansas, not less than 10 days  
33 before the date of the sale, except that cigarettes *or tobacco products* shall  
34 be withheld from public sale and shall be sold by the director of taxation to  
35 the manufacturer of such cigarettes *or tobacco products* or to a licensed  
36 distributor and the purchase price shall be paid to the director of taxation  
37 and treated as cigarette *or tobacco product* tax collected. After deducting  
38 all costs incurred in the seizure, forfeiture and sale of all contraband,  
39 including cigarettes, *tobacco products* and property seized by the director  
40 or by the director's authorized agent, pursuant to this subsection, all such  
41 proceeds shall be remitted to the state treasurer in accordance with the  
42 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
43 each such remittance, the state treasurer shall deposit the entire amount in

1 the state treasury to the credit of the cigarette and tobacco products  
2 regulation fund created by K.S.A. 79-3391, and amendments thereto, and  
3 such proceeds shall be used exclusively for cigarette and tobacco products  
4 regulation and enforcement; and not for any other purpose.

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

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

39 (d) The forfeiture provisions of this act shall only apply to persons  
40 having possession of or transporting cigarettes *or tobacco products* with  
41 intent to barter, sell or give away the same. The possession of cigarettes in  
42 any quantity of more than five cartons, 50 packages or 1,000 cigarettes,  
43 not bearing indicia of tax payment as required by the provisions of K.S.A.

1 79-3301 et seq., and amendments thereto, shall be prima facie evidence of  
2 intent to barter, sell or give away the cigarettes in violation of the  
3 provisions of K.S.A. 79-3301 et seq., and amendments thereto.

4 Sec. 17. K.S.A. 79-3333 is hereby amended to read as follows: 79-  
5 3333. (a) Each person engaged in the business of selling cigarettes,  
6 ~~smokeless tobacco or roll-your-own~~ or tobacco *products* to persons who  
7 reside in Kansas shall obtain a license as provided by the Kansas cigarette  
8 and tobacco products act.

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

11 (c) All retail dealers, whether located in or outside the state of  
12 Kansas, shall have a registration certificate as provided in K.S.A. 79-3608,  
13 and amendments thereto, and be subject to the provisions of the Kansas  
14 retailers' sales tax act. Each licensee or other person selling cigarettes,  
15 ~~smokeless tobacco or roll-your-own~~ or tobacco *products* over the internet,  
16 telephone or other mail order transaction shall file all sales tax returns and  
17 remit taxes owed pursuant to K.S.A. 79-3607, and amendments thereto.

18 (d) (1) All sales transactions over the internet, telephone or other mail  
19 order transaction shall not be completed, unless, before each delivery of  
20 cigarettes, ~~smokeless tobacco or roll-your-own~~ or tobacco *products* is  
21 made, whether through the mail, through a transportation company or any  
22 other delivery system, the seller has obtained from the purchaser a  
23 certification:

24 (A) That includes a reliable confirmation that the purchaser is at least  
25 ~~the legal minimum age to purchase cigarettes, smokeless tobacco or roll-~~  
26 ~~your-own tobacco~~ *21 years of age*;

27 (B) that the cigarettes or tobacco products purchased are not intended  
28 for consumption by an individual who is ~~younger than the legal minimum~~  
29 ~~age to purchase cigarettes, smokeless tobacco or roll-your-own tobacco~~  
30 ~~under 21 years of age~~; and

31 (C) a written statement signed by the purchaser that certifies the  
32 purchaser's address and that the purchaser is at least ~~the minimum legal~~  
33 ~~age to purchase cigarettes, smokeless tobacco or roll-your-own tobacco~~ *21*  
34 *years of age*.

35 (2) Such statement shall also confirm:

36 ~~(1)~~(A) That the purchaser understands that signing another person's  
37 name to such certification is illegal; *and*

38 ~~(2)~~(B) that the sale of cigarettes, ~~smokeless tobacco or roll-your-own~~  
39 ~~or tobacco products~~ to individuals under ~~the legal minimum purchase~~ *21*  
40 ~~years of age~~ is illegal; *and*

41 ~~(3)~~ that the purchase of cigarettes, ~~smokeless tobacco or roll-your-own~~  
42 ~~tobacco~~ by individuals under the legal minimum purchase age is illegal  
43 ~~under the laws of Kansas~~.



1 (e) The retail ~~cigarette~~ dealer shall verify the information contained in  
2 the certification provided by the purchaser against a commercially  
3 available database of governmental records, or obtain a photocopy or other  
4 image of the valid, government-issued identification stating the date of  
5 birth or age of the purchaser.

6 (f) All invoices, bills of lading, sales receipts and any other document  
7 related to the sale of cigarettes, ~~smokeless tobacco or roll-your-own~~ or  
8 tobacco *products* through the internet or other mail order transaction shall  
9 contain the current, valid retailer Kansas cigarette, ~~smokeless tobacco or~~  
10 ~~roll-your-own~~ or tobacco *products* dealer license number, Kansas sales tax  
11 registration number, business name and address of the seller.

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

18 "IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM  
19 A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU  
20 RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL  
21 LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX  
22 COLLECTION AGENCY, INCLUDING YOUR NAME AND  
23 ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL  
24 APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

25 (h) (1) Each retail dealer that sells cigarettes to Kansas consumers  
26 without indicia of Kansas tax shall file an annual statement for each  
27 consumer to the department of revenue on such forms as are provided or  
28 approved by the department to the director for all Kansas consumers by  
29 March 1 of each year showing such information as the Kansas department  
30 of revenue shall require by rules and regulations, including the:

31 (A) Name and address of such Kansas consumer;

32 (B) the date of purchase; and

33 (C) the total number of packs of cigarettes purchased by such Kansas  
34 consumer made from the retail dealer in the previous calendar year.

35 (2) The director may require any retail dealer that sells cigarettes to  
36 Kansas consumers without indicia of Kansas tax of more than \$100,000 in  
37 a calendar year to file the annual statement described in paragraph (1) by  
38 electronic format, including magnetic media or another machine-readable  
39 form for that year.

40 (3) Failure to file the annual statement required in paragraph (1) shall  
41 subject the retailer dealer to a penalty of \$10 for each consumer that  
42 should have been included in such annual statement, unless the retailer  
43 shows reasonable cause for such failure.

1 (i) Except as otherwise provided by this act, a violation of subsection  
2 (a), (d), (e) or (h) is a:

3 (1) Class A misdemeanor for a first violation, and the offender shall  
4 be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;

5 (2) severity level 6, nonperson felony for a second violation, and the  
6 offender shall be fined not less than \$50,000 nor more than \$100,000 upon  
7 a second conviction; and

8 (3) severity level 6, nonperson felony for a third and all subsequent  
9 violations, and the offender shall be fined \$100,000 upon a third and all  
10 subsequent convictions.

11 (j) Each separate violation of any provision of this section, other than  
12 the provisions of subsection (a), (d), (e) or (h) shall be a class B  
13 misdemeanor, and the offender shall be fined not less than \$500 nor more  
14 than \$1,000.

15 (k) The secretary of revenue or the secretary's authorized agent may  
16 refer such evidence as may be available concerning violations of this act or  
17 any rules and regulations or order hereunder to the attorney general or the  
18 proper county or district attorney, who may, in the prosecutor's discretion,  
19 with or without such a reference, institute the appropriate criminal  
20 proceedings under this act. Upon receipt of such reference, the attorney  
21 general or the county attorney or district attorney may request that a duly  
22 employed attorney of the department of revenue prosecute or assist in the  
23 prosecution of such violation or violations on behalf of the state. Upon  
24 approval of the secretary or the secretary's authorized agent, such  
25 employee shall be appointed as a special prosecutor for the attorney  
26 general or the county attorney or district attorney to serve without  
27 compensation from the attorney general or the county attorney or district  
28 attorney. Such special prosecutor shall have all the powers and duties  
29 prescribed by law for assistant attorneys general or assistant county or  
30 district attorneys and such other powers and duties as are lawfully  
31 delegated to such special prosecutor by the attorney general or the county  
32 attorney or district attorney. If an attorney employed by the secretary or  
33 secretary's authorized agent acts as a special prosecutor, the secretary may  
34 pay extradition and witness expenses associated with the case.

35 (l) The provisions of this section shall be a part of and supplemental  
36 to the Kansas cigarette and tobacco products act.

37 Sec. 18. K.S.A. 79-3334 is hereby amended to read as follows: 79-  
38 3334. (a) The Kansas department of revenue shall publish a list of active  
39 cigarette and tobacco *product* licensees and shall update such list monthly.

40 (b) The list of active cigarette and tobacco *product* licensees  
41 published as provided in subsection (a) shall contain the following  
42 information: County name, owner, business name, address, license type  
43 and license number.

1 (c) The provisions of this section shall be a part of and supplemental  
2 to the Kansas cigarette and tobacco products act.

3 Sec. 19. K.S.A. 79-3391 is hereby amended to read as follows: 79-  
4 3391. (a) In addition to or in lieu of any other civil or criminal penalty  
5 provided by law, the secretary of revenue or the secretary's designee, upon  
6 a finding that a person under this act has violated any provision of this act  
7 or any provision of any rule and regulation of the secretary of revenue  
8 adopted pursuant to this act shall impose on such person a civil fine not  
9 exceeding \$1,000 for each violation.

10 (b) It shall be unlawful for any ~~person~~ *retail dealer*, directly or  
11 indirectly, to:

12 (1) Sell, give or furnish any cigarettes or tobacco products to any  
13 person under ~~18~~ 21 years of age; or

14 (2) buy any cigarettes or tobacco products for any person under ~~18~~ 21  
15 years of age.

16 (c) In determining the fine to be imposed under this subsection by a  
17 licensed retail dealer whose employee sold, furnished or distributed the  
18 cigarettes or tobacco products, the secretary of revenue, or the secretary's  
19 designee, shall consider it to be a mitigating circumstance if the employee  
20 had completed a training program, approved by the secretary of ~~revenue~~  
21 *health and environment*, or the secretary's designee, in avoiding sale,  
22 furnishing or distributing of cigarettes and tobacco products to persons  
23 under ~~18~~ 21 years of age.

24 ~~(e)~~(d) No fine shall be imposed pursuant to this section except upon  
25 the written order of the secretary of revenue, or the secretary's designee, to  
26 the licensee who committed the violation. Such order shall state the  
27 violation, the fine to be imposed and the right of the licensee to appeal the  
28 order. Such order shall be subject to appeal and review in the manner  
29 provided by the Kansas administrative procedure act.

30 ~~(d)~~(e) Any fine collected pursuant to this section shall be remitted to  
31 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 cigarette and tobacco products regulation fund.

35 ~~(e)~~(f) There is hereby created; in the state treasury; the cigarette and  
36 tobacco products regulation fund. Moneys in the fund shall be expended  
37 only for the enforcement of this act and rules and regulations adopted  
38 pursuant to this act. Such expenditures shall be made in accordance with  
39 appropriation acts upon warrants of the director of accounts and reports  
40 issued pursuant to vouchers approved by the secretary of revenue or a  
41 person designated by the secretary.

42 ~~(f)~~(g) (1) If a ~~person~~ *retail dealer* violates subsection (b) for a second  
43 or subsequent occurrence within a three-year period, the secretary ~~may~~

1 shall impose a graduated fine upon such person for the second or  
2 subsequent occurrence.

3 (2) For purposes of determining the number of violations of  
4 subsection (b), each violation of subsection (b) or violation of an  
5 ordinance of any city or a resolution of any county that prohibits the acts  
6 prohibited by subsection (b) shall be considered a separate violation of  
7 subsection (b).

8 (3) For the purposes of imposing a fine under this section, if three or  
9 more years have elapsed since a person has been found to have violated  
10 the provisions of subsection (b), such person shall be treated as never  
11 having violated subsection (b).

12 Sec. 20. K.S.A. 79-3394 is hereby amended to read as follows: 79-  
13 3394. (a) *The director or the director's authorized agents shall perform at*  
14 *least one unannounced compliance inspection each calendar year at each*  
15 *retail dealer. The director or the director's authorized agents may engage*  
16 *or direct any person between 18 and 20 years of age to violate the*  
17 *provisions of the cigarette and tobacco products act to determine and*  
18 *encourage compliance with the provisions of such act prohibiting the*  
19 *furnishing or sale of cigarettes and tobacco products to persons under 21*  
20 *years of age. For any retail dealer determined to not be in compliance, a*  
21 *subsequent unannounced compliance inspection shall be performed at*  
22 *such retail dealer not more than three months after the date of the failed*  
23 *compliance inspection. The results of all compliance inspections shall be*  
24 *published each year by the director and made available for inspection*  
25 *upon request.*

26 (b) No person shall engage or direct a ~~minor~~ person under 18 years  
27 of age to violate any provision of this act for purposes of determining  
28 compliance with provisions of this act or the Kansas consumer protection  
29 act unless such person has procured the written consent of a parent or  
30 guardian of the ~~minor~~ person under 18 years of age to so engage or direct  
31 the ~~minor~~ person under 18 years of age and such person is:

32 (a)(1) An officer having authority to enforce the provisions of this  
33 act;

34 (b)(2) an authorized representative of the attorney general, a county  
35 attorney or a district attorney; or

36 (e)(3) an authorized representative of a business acting pursuant to a  
37 self-compliance program designed to increase compliance with the  
38 provisions of this act.

39 Sec. 21. K.S.A. 79-3396 is hereby amended to read as follows: 79-  
40 3396. (a) In addition to or in lieu of any other civil or criminal penalty  
41 provided by law, the director, upon a finding that a licensee has violated  
42 the provisions of ~~subsection (u), (v) or (w)~~ of K.S.A. 79-3321(s), (t) or (u),  
43 and amendments thereto, or has failed to comply with the provisions of

1 K.S.A. 79-3395, and amendments thereto, or any rule and regulation  
2 adopted pursuant thereto, may revoke or suspend the license of any  
3 licensee in the manner provided by K.S.A. 79-3309, and amendments  
4 thereto; the director also may impose a civil fine in an amount not to  
5 exceed the greater of 500% of the retail value of the cigarettes involved or  
6 \$5,000. Such fine shall be imposed in the manner provided by K.S.A. 79-  
7 3391, and amendments thereto.

8 (b) Any ~~cigarettes~~ *regulated products* that are acquired, held, owned,  
9 possessed, transported, imported, sold or distributed in this state in  
10 violation of ~~subsection (u), (v) or (w)~~ of K.S.A. 79-3321(*s*), (*t*) or (*u*), and  
11 amendments thereto, or has failed to comply with the provisions of K.S.A.  
12 79-3395, and amendments thereto, shall be deemed contraband under  
13 K.S.A. 79-3323, and amendments thereto, and shall be subject to seizure  
14 and forfeiture as provided therein and in K.S.A. 79-3324a, and  
15 amendments thereto. All such ~~cigarettes~~ *regulated products* seized and  
16 forfeited shall be destroyed. Such ~~cigarettes~~ *regulated products* shall be  
17 deemed contraband whether the violation of this act is knowing or  
18 otherwise.

19 Sec. 22. K.S.A. 79-3397 is hereby amended to read as follows: 79-  
20 3397. (a) The provisions of ~~subsection (u), (v) or (w)~~ of K.S.A. 79-  
21 3321(*s*), (*t*) or (*u*) and ~~K.S.A. 79-3395~~, and amendments thereto, shall be  
22 enforced by the director. At the request of the director or the director's duly  
23 authorized agent, the Kansas bureau of investigation and all local law  
24 enforcement agencies shall enforce such provisions. The attorney general  
25 shall have concurrent power with the district and county attorneys of the  
26 state to enforce such provisions.

27 (b) For the purpose of enforcing the provisions of ~~subsection (u), (v)~~  
28 ~~or (w)~~ of K.S.A. 79-3321(*s*), (*t*) or (*u*) and ~~K.S.A. 79-3395~~, and  
29 amendments thereto, the director and any agency to which the director  
30 shall have delegated enforcement responsibility pursuant to subsection (a)  
31 may request information from any state or local agency, and may share  
32 information with, and request information from, any federal agency and  
33 any agency of any other state or any local agency thereof.

34 (c) Any person who may be damaged or injured by a violation of the  
35 provisions of ~~subsection (u), (v) or (w)~~ of K.S.A. 79-3321(*s*), (*t*) or (*u*) or  
36 ~~K.S.A. 79-3395~~, and amendments thereto, shall have a cause of action  
37 against any person causing such damage or injury. Such action may be  
38 brought by any person who is injured in such person's business or property  
39 by reason of any violation of such provisions, regardless of whether such  
40 injured person dealt directly or indirectly with the defendant. The plaintiff  
41 in any action commenced hereunder in the district court of the county  
42 wherein such plaintiff resides, or the district court of the county of the  
43 defendant's principal place of business, may sue for and recover treble the

1 damages sustained. In addition, any person who is threatened with injury  
2 or additional injury by reason of any person's violation may commence an  
3 action in such district court to enjoin any such violation, and any damages  
4 suffered may be sued for and recovered in the same action in addition to  
5 injunctive relief. In any action commenced under this act, the plaintiff may  
6 be allowed reasonable attorney fees and costs. The remedies provided  
7 herein shall be alternative and in addition to any other remedies provided  
8 by law.

9 Sec. 23. K.S.A. 12-4215, 28-172a, 79-3301, 79-3302, 79-3303, 79-  
10 3304, 79-3309, 79-3321, 79-3322, 79-3323, 79-3324a, 79-3333, 79-3334,  
11 79-3391, 79-3393, 79-3394, 79-3396 and 79-3397 and K.S.A. 2022 Supp.  
12 19-4715a, 21-5102, 50-6a14 and 50-6a17 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.