

2023 Kansas Statutes

79-3301. Definitions. As used in K.S.A. 79-3301 et seq., and amendments thereto:

- (a) "Act" means the Kansas cigarette and tobacco products act.
- (b) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.
- (c) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.
- (d) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.
- (e) "Conspicuous location or place" means a location or place available to the general public.
- (f) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.
- (g) "Contracting entity" means any public or private person, firm or entity that has entered into a contract with the secretary of revenue to provide services.
- (h) "Dealer" means any person who engages in the sale or manufacture of cigarettes, tobacco products or electronic cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.
- (i) "Dealer establishment" means any location or premises, other than vending machine locations, at or from which cigarettes, tobacco products or electronic cigarettes are sold, and where records are kept.
- (j) "Director" means the director of taxation.
- (k) "Distributor" means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;
(2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or
(3) any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.
- (l) "Division" means the division of taxation.
- (m) "Electronic cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.
- (n) "Importer" means the same as provided in 26 U.S.C. § 5702(k).
- (o) "License" means the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, and the written evidence of such authority or privilege as issued by the director.
- (p) "Licensee" means any person holding a current license issued pursuant to this act.
- (q) "Manufacturer" means the same as provided in 26 U.S.C. § 5702(d).
- (r) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.
- (s) (1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer;
(2) for the purposes of K.S.A. 79-3321(v) and (w), and amendments thereto, "package" means the same as provided in 15 U.S.C. § 1332(4).
- (t) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.
- (u) "Received" means the coming to rest of cigarettes for sale by any dealer in the

state of Kansas.

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

(w) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes, tobacco products or electronic cigarettes, with or without consideration.

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

(y) "Self-service display" means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer's consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a salesperson, and which is knowingly utilized by the retail dealer to market and sell cigarettes and tobacco products to consumers. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

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

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

(bb) "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

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

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

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

(ff) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

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

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

History: L. 1933, ch. 122, § 1 (Special Session); L. 1939, ch. 329, § 1; L. 1966, ch. 46, § 1 (Budget Session); L. 1967, ch. 498, § 1; L. 1969, ch. 456, § 1; L. 1984, ch. 357, § 1; L. 1996, ch. 214, § 1; L. 2000, ch. 92, § 1; L. 2010, ch. 8, § 9; L. 2012, ch. 127, § 2; L. 2017, ch. 96, § 3; June 22.