

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **SB 10**, on page 1, following line 5, by inserting the following:

"New Section 1. (a) Any money transmitter by wire, as defined in K.S.A. 2010 Supp. 9-508, and amendments thereto, shall collect an excise tax of \$15 for each transaction of \$500 or less or, an amount equal to 3% of any transaction in excess of \$500. A receipt for such excise taxes shall be issued to the customer.

(b) Any such money transmitter by wire shall file monthly reports and returns with the director of taxation electronically at such times, in such form, and with such information, including records of all transaction receipts, as required by the director of taxation. The money transmitter by wire, at the time of filing the monthly return, shall pay by electronic fund transfer to the director of taxation the amount of excise taxes collected as provided by this act. Such return and payment of excise taxes shall be due on or before the 25th day of each month following the monthly reporting period of the return.

(c) The secretary of revenue:

(1) Shall notify the state bank commissioner of any money transmitter by wire that has not filed a monthly report for more than 60 days;

(2) may, upon request of the commissioner, assist in conducting audits and the seeking of legal remedies to ensure compliance with this act;

(3) may request the commissioner to make a claim against the surety bond of the licensee for unpaid excise taxes, interest, and fines on behalf of the state; and

(4) may adopt rules and regulations necessary to administer the provisions of subsections (a),

(b), and (c).

(d) The commissioner:

(1) May, for nonpayment of excise taxes as provided in this act, assess penalties equal to the amount of excise taxes owed to be paid to the drug money laundering and public safety fee fund;

(2) may, upon the request of the director of taxation or the director of the Kansas bureau of investigation, make a claim against the surety bond of the licensee for unpaid excise taxes, interest and fines on behalf of the state; and

(3) may adopt rules and regulations necessary to administer the provisions of this subsection.

(e) The Kansas bureau of investigation:

(1) May, at the request of the commissioner, assist in the conducting of audits and the seeking of legal remedies to ensure compliance with this act;

(2) may request the commissioner to make a claim against the surety bond of the licensee for unpaid excise taxes, interest and fines on behalf of the state of Kansas; and

(3) may adopt rules and regulations as necessary to implement the provisions of this subsection.

(f) Failure to pay such excise taxes may, at the discretion of the commissioner, result in the assessment of penalties equal to the amount owed. Such penalties shall be remitted to the drug money laundering and public safety fee fund established in section 3, and amendments thereto.

(g) The provisions of K.S.A. 79-3609, 79-3610, 79-3611, 79-3612, 79-3615, 79-3617 and 79-3643, and amendments thereto, shall apply to the administration and enforcement of this act.

New Sec. 2. Commencing in tax year 2012, and all tax years thereafter, there shall be allowed as a credit against tax liability of a resident individual imposed under the Kansas income tax act, an amount equal to the amount of any excise taxes paid pursuant to the provisions of section 1, and amendments thereto, during the tax year. If the amount of the credit allowed by this section exceeds

the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.

New Sec. 3. (a) There is hereby established in the state treasury the drug money laundering and public safety fee fund which shall be administered by the Kansas bureau of investigation. All money transmitter by wire tax moneys collected by the director of taxation under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the drug money laundering and public safety fee fund. All expenditures from the drug money laundering and public safety fee fund shall be for the purpose of supporting the Kansas bureau of investigation forensic laboratory construction project, the Kansas bureau of investigation salary and equipment improvement initiative, special public safety programs of the KBI approved by the attorney general and for the reimbursement of excise taxes paid by customers pursuant to K.S.A. 9-510, and amendments thereto.

(b) Moneys in the drug money laundering and public safety fee fund shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas bureau of investigation or the director of taxation.

Sec. 4. K.S.A. 2010 Supp. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) "Commissioner" means the state bank commissioner;

(b) "electronic instrument" means a card or other tangible object for the transmission or payment of money, including a stored value card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the value

is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in goods or services;

(c) "monetary value" means a medium of exchange, whether or not redeemable in money;

(d) "money transmission" means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means;

(e) "outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any money order or instrument issued by the licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee;

(f) "payment instrument" means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

(g) "permissible investments" means:

(1) Cash;

(2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;

(3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the federal reserve system;

(4) any investment bearing a rating of one of the three highest grades as defined by a

nationally recognized organization that rates such securities;

(5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any general obligations of any state, municipality or any political subdivision thereof;

(6) shares in a money market mutual fund, interest-bearing bills, ~~or~~ notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

(7) any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

(8) receivables which are due to a licensee from its authorized agents pursuant to a contract, which are not past due or doubtful of collection; or

(9) any other investment or security device approved by the commissioner;

(h) "person" means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise authorized to do business in this state; ~~and~~

(i) "stored value" means monetary value that is evidenced by an electronic record; ~~and~~

(j) "money transmitter by wire" means any person receiving payment for the service of sending or receiving money from another location or person. Money transmitter by wire shall not include:

(1) The United States or a department, agency or instrumentality thereof;

(2) money transmission by the United States postal service or by a contractor on behalf of the United States postal service;

(3) a state, county, city or any other governmental agency or governmental subdivision of a State;

(4) a bank;

(5) electronic funds transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a department, agency or instrumentality thereof, or a state or governmental subdivision, agency or instrumentality thereof;

(6) a board of trade designated as a contract market under the federal commodity exchange act, 7 U.S.C. §§ 1-25 (1994), or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board;

(7) a registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;

(8) a person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider;

(9) an operator of a payment system to the extent that it provides processing, clearing or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers or similar funds transfers; or

(10) a person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.

Sec. 5. K.S.A. 2010 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall

be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

(1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or the attorney general's designee;

(3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106, and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to county appraisers as is necessary to insure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq., and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease; or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606, and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, or to any law enforcement officer, as defined in subsection (c)(10) of K.S.A. 21-3110, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in conjunction with a pending investigation; ~~and~~

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department; and

(17) provide information concerning a money transmitter by wire to the state bank commissioner for the purposes of section 1, and amendments thereto.

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A₇ nonperson misdemeanor, and if the

offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.";

And renumbering the remaining sections accordingly;

On page 17, in line 30, by striking "12-187, 12-189 and 12-192" and inserting "9-508, 12-187, 12-189, 12-192 and 75-5133";

On page 1, in the title, in line 1, by striking "sales" where it appears for the first time; in line 2, before "amending" by inserting "relating to excise tax on the transmission of money by money transmitters by wire;"; also in line 2, after "Supp." by inserting "9-508,"; in line 3, by striking "and 12-192" and inserting ", 12-192 and 75-5133"

_____ District.