

HOUSE BILL No. 2982

AN ACT concerning the affixing of cigarette tax stamps and meter impressions and payment of tax on roll-your-own tobacco.

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

Section 1. (a) No person may affix, or cause to be affixed, tax stamps or meter impressions to individual packages of cigarettes or pay the required tax on roll-your-own tobacco in accordance with K.S.A. 79-3371, and amendments thereto, unless the tobacco product manufacturer that makes or sells such cigarettes or roll-your-own tobacco has:

- (1) Become a participating manufacturer; or
- (2) made all required escrow payments.

(b) Not later than July 1, 2002, the attorney general shall develop a list, to be posted on the attorney general's website, of all tobacco product manufacturers that have become participating manufacturers or made all required escrow payments. This list shall include the brand families identified by each such tobacco product manufacturer under subsection (c). The list shall be updated as necessary. A person may rely upon the attorney general's list in affixing or causing to be affixed stamps or meter impressions to individual packages of cigarettes or paying the tax on roll-your-own tobacco as required by K.S.A. 79-3371, and amendments thereto, of any brand family included on the list.

(c) In order to be included on the list developed by the attorney general under subsection (b), a tobacco product manufacturer shall (1) submit to the attorney general a list of brand families whose cigarettes are to be counted in calculating the participating manufacturer's annual payments under the master settlement agreement or required escrow payments whichever is applicable, (2) appoint a registered agent for service of process in the state and identify such registered agent to the attorney general, and (3) certify, under penalty of perjury, that all escrow payments have been made by all other tobacco product manufacturers that previously made or sold brand families identified under this subsection or brand style included within such brand families, except that, if the brand family or brand style was made or sold by the manufacturer before the effective date of this act, such manufacturer shall be required only to identify such predecessor manufacturer or manufacturers. A tobacco product manufacturer may update the list to reflect changes.

(d) In addition to or in lieu of any other civil or criminal penalty provided by law, upon a finding that a licensee has violated subsection (a) or any rules and regulations adopted pursuant thereto, the director may revoke or suspend the license of any licensee in the manner provided by K.S.A. 79-3309, and amendments thereto. The director may also impose a civil fine in an amount not to exceed the greater of 500% of the retail value of the cigarettes or roll-your-own tobacco involved or \$5,000 upon a finding of a violation of subsection (a) or any rules and regulations adopted pursuant thereto. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto.

(e) Any cigarettes or roll-your-own tobacco that are stamped, to which a meter impression is affixed or for which tax is paid as required by K.S.A. 79-3371, and amendments thereto, in violation of subsection (a) shall be deemed contraband under K.S.A. 79-3323, and amendments thereto, and shall be subject to seizure and forfeiture as provided therein and in K.S.A. 79-3324a, and amendments thereto. All such cigarettes and roll-your-own tobacco seized and forfeited shall be destroyed. Such cigarettes and roll-your-own tobacco shall be deemed contraband whether the violation of subsection (a) is knowing or otherwise.

(f) (1) The director may require wholesale dealers and distributors to submit such information as is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.

(2) The attorney general may require nonparticipating manufacturers to submit such information as the attorney general may determine is necessary to enable the attorney general to determine whether a nonparticipating manufacturer has made the required escrow payments.

(g) The attorney general may require a nonparticipating manufacturer to make the required escrow payments in quarterly installments during the year in which the sales covered by such payments are made in order to be placed on the list developed by the attorney general under subsection (b).

(h) (1) It shall be unlawful for a nonparticipating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:

(A) Any information about a brand family pursuant to the list submitted pursuant to subsection (b);

(B) that it is a participating manufacturer;

(C) that it has made all required escrow payments; or

(D) that it has satisfied any other requirements imposed pursuant to this statute.

(2) Violation of this section is a class A, nonperson misdemeanor.

(i) The director and the attorney general may enter into a written agreement authorizing the exchange of information reasonably necessary to the enforcement and administration of this section.

(j) As used in this section:

(1) "Participating manufacturer" has the meaning ascribed thereto in subsection (a) of K.S.A. 2001 Supp. 50-6a03, and amendments thereto.

(2) "Required escrow payments" means the amounts described in subsection (b)(1) of K.S.A. 2001 Supp. 50-6a03, and amendments thereto.

(3) "Director" means the director of taxation.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.