

HOUSE BILL No. 3038

By Committee on Taxation

4-9

AN ACT relating to cigarette and tobacco products taxation; increasing the rate thereof; amending K.S.A. 79-3310, 79-3312, 79-3371 and 79-3378 and K.S.A. 2001 Supp. 79-3311 and repealing the existing sections.

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

Section. 1. On and after June 1, 2002, K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$1.00 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$1.25 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

New Sec. 2. On or before June 30, 2002, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on June 1, 2002. A tax of \$.76 on each 20 cigarettes or fractional part thereof or \$.95 on each 25 cigarettes, as the case requires and \$.76 or \$.95, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to June 1, 2002, is hereby imposed and shall be due and payable on or before June 30, 2002. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 3. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied

1 stamps only to licensed wholesale dealers in the amounts of 1,000 or
2 multiples thereof. Stamps applied by the heat process shall be sold only
3 in amounts of 30,000 or multiples thereof, except that such stamps which
4 are suitable for packages containing 25 cigarettes each shall be sold in
5 amounts prescribed by the director. Meter imprints shall be sold only in
6 amounts of 10,000 or multiples thereof. Water applied stamps in amounts
7 of 10,000 or multiples thereof and stamps applied by the heat process
8 and meter imprints shall be supplied to wholesale dealers at a discount
9 of ~~2.65%~~ 0.636% from the face value thereof, and shall be deducted at
10 the time of purchase or from the remittance therefor as hereinafter pro-
11 vided. Any wholesale cigarette dealer who shall file with the director a
12 bond, of acceptable form, payable to the state of Kansas with a corporate
13 surety authorized to do business in Kansas, shall be permitted to purchase
14 stamps, and remit therefor to the director within 30 days after each such
15 purchase, up to a maximum outstanding at any one time of 85% of the
16 amount of the bond. Failure on the part of any wholesale dealer to remit
17 as herein specified shall be cause for forfeiture of such dealer's bond. All
18 revenue received from the sale of such stamps or meter imprints shall be
19 remitted to the state treasurer in accordance with the provisions of K.S.A.
20 75-4215, and amendments thereto. Upon receipt of each such remittance,
21 the state treasurer shall deposit the entire amount in the state treasury.
22 The state treasurer shall first credit such amount as the director shall
23 order to the cigarette tax refund fund and shall credit the remaining
24 balance to the state general fund. A refund fund designated the cigarette
25 tax refund fund not to exceed \$10,000 at any time shall be set apart and
26 maintained by the director from taxes collected under this act and held
27 by the state treasurer for prompt payment of all refunds authorized by
28 this act. Such cigarette tax refund fund shall be in such amount as the
29 director shall determine is necessary to meet current refunding require-
30 ments under this act.

31 The wholesale cigarette dealer shall affix to each package of cigarettes
32 stamps or tax meter imprints required by this act prior to the sale of
33 cigarettes to any person, by such dealer or such dealer's agent or agents,
34 within the state of Kansas. The director is empowered to authorize whole-
35 sale dealers to affix revenue tax meter imprints upon original packages of
36 cigarettes and is charged with the duty of regulating the use of tax meters
37 to secure payment of the proper taxes. No wholesale dealer shall affix
38 revenue tax meter imprints to original packages of cigarettes without first
39 having obtained permission from the director to employ this method of
40 affixation. If the director approves the wholesale dealer's application for
41 permission to affix revenue tax meter imprints to original packages of
42 cigarettes, the director shall require such dealer to file a suitable bond
43 payable to the state of Kansas executed by a corporate surety authorized

1 to do business in Kansas. The director may, to assure the proper collection
2 of taxes imposed by the act, revoke or suspend the privilege of imprinting
3 tax meter imprints upon original packages of cigarettes. All meters shall
4 be under the direct control of the director, and all transfer assignments
5 or anything pertaining thereto must first be authorized by the director.
6 All inks used in the stamping of cigarettes must be of a special type
7 devised for use in connection with the machine employed and approved
8 by the director. All repairs to the meter are strictly prohibited except by
9 a duly authorized representative of the director. Requests for service shall
10 be directed to the director. Meter machine ink imprints on all packages
11 shall be clear and legible. If a wholesale dealer continuously issues illeg-
12 ible cigarette tax meter imprints, it shall be considered sufficient cause
13 for revocation of such dealer's permit to use a cigarette tax meter.

14 A licensed wholesale dealer may, for the purpose of sale in another
15 state, transport cigarettes not bearing Kansas indicia of tax payment
16 through the state of Kansas provided such cigarettes are contained in
17 sealed and original cartons.

18 Sec. 4. On and after June 1, 2002, K.S.A. 79-3312 is hereby amended
19 to read as follows: 79-3312. The director shall redeem any unused stamps
20 or meter imprints that any wholesale dealer presents for redemption
21 within six months after the purchase thereof, at the face value less ~~2.65%~~
22 *0.636%* thereof if such stamps or meter imprints have been purchased
23 from the director. The director shall prepare a voucher showing the net
24 amount of such refund due, and the director of accounts and reports shall
25 draw a warrant on the state treasurer for the same. Wholesale dealers
26 shall be entitled to a refund of the tax paid on cigarettes which have
27 become unfit for sale upon proof thereof less ~~2.65%~~ *0.636%* of such tax.

28 Sec. 5. On and after June 1, 2002, K.S.A. 79-3371 is hereby amended
29 to read as follows: 79-3371. A tax is hereby imposed upon the privilege
30 of selling or dealing in tobacco products in this state by any person en-
31 gaged in business as a distributor thereof, at the rate of ~~ten percent (10%)~~
32 *40%* of the wholesale sales price of such tobacco products. Such tax shall
33 be imposed at the time the distributor (a) brings or causes to be brought
34 into this state from without the state tobacco products for sale; (b) makes,
35 manufactures, or fabricates tobacco products in this state for sale in this
36 state; or (c) ships or transports tobacco products to retailers in this state
37 to be sold by those retailers.

38 New Sec. 6. On or before June 30, 2002, each distributor having a
39 place of business in this state shall file a report with the director in such
40 form as the director may prescribe, showing the tobacco products on hand
41 at 12:01 a.m. on June 1, 2002. A tax at a rate equal to 30% of the wholesale
42 sales price of such tobacco products is hereby imposed upon such tobacco
43 products and shall be due and payable on or before June 30, 2002. The

1 tax upon such tobacco products shall be imposed only once under this
2 act. The director shall remit all moneys collected pursuant to this section
3 to the state treasurer who shall credit the entire amount thereof to the
4 state general fund.

5 Sec. 7. On and after June 1, 2002, K.S.A. 79-3378 is hereby amended
6 to read as follows: 79-3378. On or before the ~~twentieth~~ *20th* day of each
7 calendar month every distributor with a place of business in this state
8 shall file a return with the director showing the quantity and wholesale
9 sales price of each tobacco product ~~(1)~~ brought, or caused to be brought,
10 into this state for sale; and ~~(2)~~ made, manufactured, or fabricated in this
11 state for sale in this state during the preceding calendar month. Every
12 licensed distributor outside this state shall in like manner file a return
13 showing the quantity and wholesale sales price of each tobacco product
14 shipped or transported to retailers in this state to be sold by those retail-
15 ers, during the preceding calendar month. Returns shall be made upon
16 forms furnished and prescribed by the director. Each return shall be
17 accompanied by a remittance for the full tax liability shown therein, less
18 ~~four percent (4%)~~ *1%* of such liability as compensation to reimburse the
19 distributor for his or her expenses incurred in the administration of this
20 act. As soon as practicable after any return is filed, the director shall
21 examine the return. If the director finds that, ~~in his or her judgment,~~
22 the return is incorrect and any amount of tax is due from the distributor and
23 unpaid, ~~he or she~~ *the director* shall notify the distributor of the deficiency.
24 If a deficiency disclosed by the director's examination cannot be allocated
25 by him to a particular month or months, ~~he or she~~ *the director* may
26 nevertheless notify the distributor that a deficiency exists and state the
27 amount of tax due. Such notice shall be given to the distributor by reg-
28 istered or certified mail.

29 Sec. 8. On and after June 1, 2002, K.S.A. 79-3310, 79-3312, 79-3371
30 and 79-3378 and K.S.A. 2001 Supp. 79-3311 are hereby repealed.

31 Sec. 9. This act shall take effect and be in force from and after its
32 publication in the Kansas register.

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