

## HOUSE BILL No. 2422

By Committee on Taxation

2-28

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AN ACT concerning cigarettes; relating to unlawful shipment or transport thereof; prescribing certain penalties therefor.

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

Section 1. (a) Unlawful shipment of cigarettes is shipping or causing to be shipped any cigarettes by any person engaged in the business of selling cigarettes to any person in this state who is not: (1) A person licensed to sell cigarettes as provided by K.S.A. 79-3301 *et seq.* and amendments thereto; (2) an export warehouse proprietor pursuant to chapter 52 of the internal revenue code or an operator of a customs bonded warehouse pursuant to section 1311 or 1555 of title 19 of the United States Code; or (3) a person who is an officer, employee or agent of this state or the United States government, or a department, agency, instrumentality or political subdivision of this state or the United States government, when such person is acting in accordance with such person's official duties.

(b) Unlawful transport of cigarettes is: (1) Knowingly transporting cigarettes by any common or contract carrier to any person in this state reasonably believed by such carrier to be other than a person described in subsection (a)(1), (a)(2) or (a)(3). For purposes of this subsection, if cigarettes are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in subsection (a)(1), (a)(2) or (a)(3); or (2) knowingly transporting cigarettes by any person other than a common or contract carrier to any person in this state, other than to a person described in subsection (a)(1), (a)(2) or (a)(3). Nothing in this subsection shall be construed to prohibit a person other than a common or contract carrier from transporting not more than 800 cigarettes at any one time to any person in this state.

(c) When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this state, other than in the cigarette manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes."

(d) Whenever a law enforcement officer discovers any cigarettes

1 which have been or which are being shipped or transported in violation  
2 of this section, such law enforcement officer is hereby empowered and  
3 authorized to seize and take possession of such cigarettes, and such cig-  
4 arettes shall be subject to a forfeiture action pursuant to the procedures  
5 provided for in K.S.A. 79-3324a and amendments thereto.

6 (e) (1) Except as otherwise provided in subsection (e)(3), unlawful  
7 shipment of cigarettes is a class A nonperson misdemeanor.

8 (2) Except as provided in subsection (e)(3), unlawful transport of cig-  
9 arettes is a class A nonperson misdemeanor.

10 (3) Unlawful shipment of cigarettes or unlawful transport of ciga-  
11 rettes by a person or common or contract carrier who has one or more  
12 prior convictions of a violation of this section or substantially similar of-  
13 fenses from another jurisdiction is a severity level 8, nonperson felony.

14 (f) The director of taxation may impose a civil fine not to exceed  
15 \$5,000 for each violation on any person who violates the provisions of  
16 subsection (a) or (b).

17 Sec. 2. This act shall take effect and be in force from and after its  
18 publication in the statute book.

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