

## SENATE BILL No. 289

By Committee on Ways and Means

3-7

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9 AN ACT concerning taxation on cigarettes and tobacco products; relating  
10 to rates; amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2004 Supp.  
11 79-3310, 79-3311, 79-3312 and 79-3387 and repealing the existing  
12 sections.  
13

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

15 Section 1. K.S.A. 2004 Supp. 79-3310 is hereby amended to read as  
16 follows: 79-3310. There is imposed a tax upon all cigarettes sold, distrib-  
17 uted or given away within the state of Kansas. On and after July 1, 2002,  
18 and before January 1, 2003, the rate of such tax shall be \$.70 on each 20  
19 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the  
20 case requires. On and after January 1, 2003, *and before January 1, 2006*,  
21 the rate of such tax shall be \$.79 on each 20 cigarettes or fractional part  
22 thereof or \$.99 on each 25 cigarettes, as the case requires. *On and after*  
23 *January 1, 2006, and before January 1, 2007, the rate of such tax shall be*  
24 *\$.94 on each 20 cigarettes or fractional part thereof or \$1.18 on each 25*  
25 *cigarettes, as the case requires. On and after January 1, 2007, the rate of*  
26 *such tax shall be \$1.29 on each 20 cigarettes or fractional part thereof or*  
27 *\$1.61 on each 25 cigarettes, as the case requires.* Such tax shall be col-  
28 lected and paid to the director as provided in this act. Such tax shall be  
29 paid only once and shall be paid by the wholesale dealer first receiving  
30 the cigarettes as herein provided.

31 The taxes imposed by this act are hereby levied upon all sales of ciga-  
32 rettes made to any department, institution or agency of the state of Kan-  
33 sas, and to the political subdivisions thereof and their departments, insti-  
34 tutions and agencies.

35 New Sec. 2. (a) After January 1, 2006, and before January 31, 2006,  
36 each wholesale dealer, retail dealer and vending machine operator shall  
37 file a report with the director in such form as the director may prescribe  
38 showing cigarettes, cigarette stamps and meter imprints on hand at 12:01  
39 a.m. on January 1, 2006. A tax of \$.15 on each 20 cigarettes or fractional  
40 part thereof or \$.19 on each 25 cigarettes, as the case requires and \$.15  
41 or \$.19 as the case requires upon all tax stamps and all meter imprints  
42 purchased from the director and not affixed to cigarettes prior to January  
43 1, 2006, is hereby imposed and shall be due and payable on or before

1 January 31, 2006. The tax imposed upon such cigarettes, tax stamps and  
2 meter imprints shall be imposed only once under this act. The director  
3 shall remit all moneys collected pursuant to this section to the state trea-  
4 surer who shall credit the entire amount thereof to the health initiative  
5 fund.

6 (b) After January 1, 2007, and before January 31, 2007, each whole-  
7 sale dealer, retail dealer and vending machine operator shall file a report  
8 with the director in such form as the director may prescribe showing  
9 cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on  
10 January 1, 2007. A tax of \$.35 on each 20 cigarettes or fractional part  
11 thereof or \$.43 on each 25 cigarettes, as the case requires and \$.35 or  
12 \$.43, as the case requires upon all tax stamps and all meter imprints  
13 purchased from the director and not affixed to cigarettes prior to January  
14 1, 2007, is hereby imposed and shall be due and payable on or before  
15 January 31, 2007. The tax imposed upon such cigarettes, tax stamps and  
16 meter imprints shall be imposed only once under this act. The director  
17 shall remit all moneys collected pursuant to this section to the state trea-  
18 surer who shall credit the entire amount thereof to the health initiative  
19 fund.

20 Sec. 3. K.S.A. 2004 Supp. 79-3311 is hereby amended to read as  
21 follows: 79-3311. The director shall design and designate indicia of tax  
22 payment to be affixed to each package of cigarettes as provided by this  
23 act. The director shall sell water applied stamps only to licensed wholesale  
24 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by  
25 the heat process shall be sold only in amounts of 30,000 or multiples  
26 thereof, except that such stamps which are suitable for packages contain-  
27 ing 25 cigarettes each shall be sold in amounts prescribed by the director.  
28 Meter imprints shall be sold only in amounts of 10,000 or multiples  
29 thereof. Water applied stamps in amounts of 10,000 or multiples thereof  
30 and stamps applied by the heat process and meter imprints shall be sup-  
31 plied to wholesale dealers at a discount of .90% on and after July 1, 2002,  
32 and before January 1, 2003, ~~and~~ .80% on and after January 1, 2003, and  
33 before January 1, 2006; .672% on and after January 1, 2006, and before  
34 January 1, 2007; and .489% on and after January 1, 2007, and thereafter  
35 from the face value thereof, and shall be deducted at the time of purchase  
36 or from the remittance therefor as hereinafter provided. Any wholesale  
37 cigarette dealer who shall file with the director a bond, of acceptable  
38 form, payable to the state of Kansas with a corporate surety authorized  
39 to do business in Kansas, shall be permitted to purchase stamps, and remit  
40 therefor to the director within 30 days after each such purchase, up to a  
41 maximum outstanding at any one time of 85% of the amount of the bond.  
42 Failure on the part of any wholesale dealer to remit as herein specified  
43 shall be cause for forfeiture of such dealer's bond. All revenue received

1 from the sale of such stamps or meter imprints shall be remitted to the  
2 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
3 amendments thereto. Upon receipt of each such remittance, the state  
4 treasurer shall deposit the entire amount in the state treasury. *On and*  
5 *after January 1, 2006, and before January 1, 2007, upon receipt of each*  
6 *such remittance, the state treasurer shall deposit 79/94 in the state general*  
7 *fund and the remainder into the health initiative fund. On and after Jan-*  
8 *uary 1, 2007, the state treasurer shall deposit 79/129 in the state general*  
9 *fund and the remainder into the health initiative fund.* The state treasurer  
10 shall first credit such amount as the director shall order to the cigarette  
11 tax refund fund and shall credit the remaining balance to the state general  
12 fund. A refund fund designated the cigarette tax refund fund not to ex-  
13 ceed \$10,000 at any time shall be set apart and maintained by the director  
14 from taxes collected under this act and held by the state treasurer for  
15 prompt payment of all refunds authorized by this act. Such cigarette tax  
16 refund fund shall be in such amount as the director shall determine is  
17 necessary to meet current refunding requirements under this act.

18 The wholesale cigarette dealer shall affix to each package of cigarettes  
19 stamps or tax meter imprints required by this act prior to the sale of  
20 cigarettes to any person, by such dealer or such dealer's agent or agents,  
21 within the state of Kansas. The director is empowered to authorize whole-  
22 sale dealers to affix revenue tax meter imprints upon original packages of  
23 cigarettes and is charged with the duty of regulating the use of tax meters  
24 to secure payment of the proper taxes. No wholesale dealer shall affix  
25 revenue tax meter imprints to original packages of cigarettes without first  
26 having obtained permission from the director to employ this method of  
27 affixation. If the director approves the wholesale dealer's application for  
28 permission to affix revenue tax meter imprints to original packages of  
29 cigarettes, the director shall require such dealer to file a suitable bond  
30 payable to the state of Kansas executed by a corporate surety authorized  
31 to do business in Kansas. The director may, to assure the proper collection  
32 of taxes imposed by the act, revoke or suspend the privilege of imprinting  
33 tax meter imprints upon original packages of cigarettes. All meters shall  
34 be under the direct control of the director, and all transfer assignments  
35 or anything pertaining thereto must first be authorized by the director.  
36 All inks used in the stamping of cigarettes must be of a special type  
37 devised for use in connection with the machine employed and approved  
38 by the director. All repairs to the meter are strictly prohibited except by  
39 a duly authorized representative of the director. Requests for service shall  
40 be directed to the director. Meter machine ink imprints on all packages  
41 shall be clear and legible. If a wholesale dealer continuously issues illeg-  
42 ible cigarette tax meter imprints, it shall be considered sufficient cause  
43 for revocation of such dealer's permit to use a cigarette tax meter.

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

5 Sec. 4. K.S.A. 2004 Supp. 79-3312 is hereby amended to read as  
6 follows: 79-3312. The director shall redeem any unused stamps or meter  
7 imprints that any wholesale dealer presents for redemption within six  
8 months after the purchase thereof, at the face value less .90% on and  
9 after July 1, 2002, and before January 1, 2003, ~~and~~; .80% *on and after*  
10 *January 1, 2003, and before January 1, 2006; .672% on and after January*  
11 *1, 2006, and before January 1, 2007; and .489% on and after January 1,*  
12 *2007, and thereafter thereof*, if such stamps or meter imprints have been  
13 purchased from the director. The director shall prepare a voucher show-  
14 ing the net amount of such refund due, and the director of accounts and  
15 reports shall draw a warrant on the state treasurer for the same. Wholesale  
16 dealers shall be entitled to a refund of the tax paid on cigarettes which  
17 have become unfit for sale upon proof thereof less .90% on and after July  
18 1, 2002, and before January 1, 2003, ~~and~~; .80% *on and after January 1,*  
19 *2003, and before January 1, 2006; 6.72% on and after January 1, 2006,*  
20 *and before January 1, 2007; and .489% on and after January 1, 2007, and*  
21 *thereafter of such tax.*

22 Sec. 5. K.S.A. 79-3371 is hereby amended to read as follows: 79-  
23 3371. A tax is hereby imposed upon the privilege of selling or dealing in  
24 tobacco products in this state by any person engaged in business as a  
25 distributor thereof, at the rate of ~~ten percent (10%)~~ *10% prior to January*  
26 *1, 2006, and 15% on and after January 1, 2006,* of the wholesale sales  
27 price of such tobacco products. Such tax shall be imposed at the time the  
28 distributor (a) brings or causes to be brought into this state from without  
29 the state tobacco products for sale; (b) makes, manufactures, or fabricates  
30 tobacco products in this state for sale in this state; or (c) ships or transports  
31 tobacco products to retailers in this state to be sold by those retailers.

32 New Sec. 6. On or before January 31, 2006, each distributor having  
33 a place of business in this state shall file a report with the director in such  
34 form as the director may prescribe, showing the tobacco products on hand  
35 at 12:01 a.m. on January 1, 2006. A tax at a rate equal to 5% of the  
36 wholesale sales price of such tobacco products is hereby imposed upon  
37 such tobacco products and shall be due and payable on or before January  
38 31, 2006. The tax upon such tobacco products shall be imposed only once  
39 under this act. The director shall remit all moneys collected pursuant to  
40 this section to the state treasurer who shall credit the entire amount  
41 thereof to the health initiative fund.

42 Sec. 7. K.S.A. 79-3378 is hereby amended to read as follows: 79-  
43 3378. On or before the ~~twentieth~~ *20th* day of each calendar month every

1 distributor with a place of business in this state shall file a return with  
2 the director showing the quantity and wholesale sales price of each to-  
3 bacco product ~~(1)~~ brought, or caused to be brought, into this state for  
4 sale; and ~~(2)~~ made, manufactured, or fabricated in this state for sale in  
5 this state during the preceding calendar month. Every licensed distributor  
6 outside this state shall in like manner file a return showing the quantity  
7 and wholesale sales price of each tobacco product shipped or transported  
8 to retailers in this state to be sold by those retailers, during the preceding  
9 calendar month. Returns shall be made upon forms furnished and pre-  
10 scribed by the director. Each return shall be accompanied by a remittance  
11 for the full tax liability shown therein, less ~~four percent (4%)~~ 4% for  
12 *returns filed prior to January 1, 2006, and less 2.66% for returns filed on*  
13 *or after January 1, 2006*, of such liability as compensation to reimburse  
14 the distributor for ~~his or her~~ expenses incurred in the administration of  
15 this act. As soon as practicable after any return is filed, the director shall  
16 examine the return. If the director finds that, ~~in his or her judgment~~, the  
17 return is incorrect and any amount of tax is due from the distributor and  
18 unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency.  
19 If a deficiency disclosed by the director's examination cannot be allocated  
20 by ~~him~~ the director to a particular month or months, ~~he or she~~ the director  
21 may ~~nevertheless~~ notify the distributor that a deficiency exists and state  
22 the amount of tax due. Such notice shall be given to the distributor by  
23 registered or certified mail.

24 Sec. 8. K.S.A. 2004 Supp. 79-3387 is hereby amended to read as  
25 follows: 79-3387. (a) All revenue collected or received by the director  
26 from taxes imposed by this act shall be remitted to the state treasurer in  
27 accordance with the provisions of K.S.A. 75-4215, and amendments  
28 thereto. *Prior to January 1, 2006*, upon receipt of each such remittance,  
29 the state treasurer shall deposit the entire amount in the state treasury  
30 to the credit of the state general fund. *On and after January 1, 2006,*  
31 *upon receipt of each such remittance, the state treasurer shall deposit 66*  
32 *2/3% in the state treasury to the credit of the state general fund and the*  
33 *remainder to the credit of the health initiative fund.*

34 (b) All moneys received from license fees imposed by this act shall  
35 be collected by the director and shall be remitted to the state treasurer  
36 in accordance with the provisions of K.S.A. 75-4215, and amendments  
37 thereto. Upon receipt of each such remittance, the state treasurer shall  
38 deposit the entire amount in the state treasury to the credit of the ciga-  
39 rette and tobacco products regulation fund created by K.S.A. 79-3391,  
40 and amendments thereto.

41 New Sec. 9. There is hereby established in the state treasury the  
42 health initiative fund. The fund shall be administered by the secretary of  
43 administration. Moneys in the fund may be expended only for the funding

1 of the health care programs and for no other governmental purpose.

2 Sec. 10. K.S.A. 79-3371 and 79-3378 and K.S.A. 2004 Supp. 79-3310,  
3 79-3311, 79-3312 and 79-3387 are hereby repealed.

4 Sec. 11. This act shall take effect and be in force from and after its  
5 publication in the statute book.