

HOUSE BILL No. 3016

By Committee on Taxation

3-16

9 AN ACT concerning taxation; relating to imposition of tax upon the priv-
10 ilege of engaging in business of distributing, manufacturing or whole-
11 sale dealing of soft drinks.

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

14 Section 1. (a) As used in this section:

15 (1) "Bottle" means any closed or sealed glass, metal, paper, plastic or
16 any other type of container regardless of the size or shape of such
17 container;

18 (2) "bottled soft drinks" means any complete, ready to consume, soft
19 drink, contained in any bottle;

20 (3) "director" means the director of taxation;

21 (4) "distributor, manufacturer or wholesale dealer" means any person
22 who receives, stores, manufactures, bottles or sells bottled soft drinks;

23 (5) "place of business" means any place where soft drinks are man-
24 ufactured or any place where bottled soft drinks are received;

25 (6) "retailer" or "retail dealer" means any person, other than a man-
26 ufacturer, distributor or wholesaler, who receives, stores, mixes com-
27 pounds or manufactures any soft drink and sells, or otherwise dispenses
28 the same to the ultimate consumer;

29 (7) "sale" means the transfer of title or possession for a valuable con-
30 sideration of tangible personal property regardless of the manner by
31 which the transfer is accomplished. When a retailer is also acting as a
32 wholesaler or distributor, the duty to report and pay the tax imposed by
33 this section arises when the property is transferred to a retail store for
34 sale to the ultimate consumer, as reflected by the records of the taxpayer;
35 and

36 (8) "soft drink" means any nonalcoholic carbonated beverage sold for
37 human consumption including, but not limited to, the following: Soda
38 water, ginger ale, all drinks commonly referred to as cola, lime, lemon,
39 lemon-lime and other flavored drinks, whether naturally or artificially
40 flavored, and all other carbonated drinks and beverages commonly re-
41 ferred to as soft drinks.

42 (b) On and after July 1, 2006, for the privilege of engaging in the
43 business of distributing, manufacturing or wholesale dealing of soft

1 drinks, there is hereby levied and there shall be collected a tax upon every
2 distributor, manufacturer or wholesale dealer, to be calculated as \$.20
3 per gallon for each gallon of bottled soft drinks sold or offered for sale in
4 the state of Kansas.

5 (c) The following shall be exempt from the tax levied by subsection
6 (b):

7 (1) Soft drinks sold to the United States Government;

8 (2) soft drinks exported from the state of Kansas by a distributor,
9 wholesaler or manufacturer;

10 (3) any soft drink containing more than 10% natural fruit juice or
11 natural vegetable juice;

12 (4) soft drinks sold by one distributor, wholesaler or manufacturer to
13 another distributor, wholesaler or manufacturer. This exemption shall not
14 apply to any sale to a retailer; and

15 (5) any product which is intended by the manufacturer for use as a
16 dietary supplement or for weight reduction.

17 (d) (1) The tax levied by subsection (b) shall be paid by the distrib-
18 utor, wholesaler or manufacturer when the soft drink is sold.

19 (2) The tax levied by subsection (b) shall be paid by a retailer who
20 purchases soft drinks from an unlicensed distributor, wholesaler or
21 manufacturer.

22 (3) The distributor, wholesaler or manufacturer and any retailer sub-
23 ject to this tax shall file a monthly return and remit the tax for the month
24 to the director on or before the 15th day of the month next following the
25 month in which the sale or purchase was made.

26 (4) The returns shall be made upon forms prescribed and furnished
27 by the director and signed by the person required to collect and remit
28 the tax and shall contain such information as the director shall require
29 for the proper administration of this section.

30 (e) All taxes collected under the provisions of this act shall be remit-
31 ted by the secretary of revenue to the state treasurer in accordance with
32 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
33 of each such remittance, the state treasurer shall deposit the entire
34 amount of all taxes collected under the provisions of this act in the state
35 treasury to the credit of the state general fund.

36 (f) All taxes imposed by this section and not paid at or before the
37 time taxes are due shall be deemed delinquent and shall bear interest at
38 the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments
39 thereto, from the due date until paid. In addition, there is hereby imposed
40 upon all amounts of such taxes remaining due and unpaid after the due
41 date a penalty on the unpaid balance of the taxes due in the amounts and
42 percentages prescribed by K.S.A. 79-3615, and amendments thereto.

43 (g) Whenever any taxpayer or person liable to pay tax imposed by this

1 section refuses or neglects to pay the tax, the amount of the tax, including
2 any interest or penalty, shall be collected in the manner provided by law
3 for collection of delinquent taxes under the Kansas retailers' sales tax act.
4 (h) Insofar as not inconsistent with this act, the provisions of the Kan-
5 sas retailers' sales tax act shall apply to the tax imposed by this section.
6 (i) The secretary of revenue is hereby authorized to administer and
7 enforce the provisions of this section and to adopt such rules and regu-
8 lations as may be necessary to carry out the responsibilities of the sec-
9 retary of revenue under this section.
10 Sec. 2. This act shall take effect and be in force from and after its
11 publication in the statute book.