

## HOUSE BILL No. 2327

By Committee on Taxation

2-11

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9 AN ACT concerning taxation upon cigarettes and tobacco products; re-  
10 lating to rates; creating the health reform fund; deposit of moneys  
11 therein; amending K.S.A. 79-3371 and 79-3378 and K.S.A. 2008 Supp.  
12 79-3310, 79-3310c, 79-3311 and 79-3312 and repealing the existing  
13 sections.

14

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

15 Section 1. K.S.A. 2008 Supp. 79-3310 is hereby amended to read as  
16 follows: 79-3310. (a) There is imposed a tax upon all cigarettes sold, dis-  
17 tributed or given away within the state of Kansas. ~~On and after July 1,~~  
18 ~~2002, and before January 1, 2003, the rate of such tax shall be \$.70 on~~  
19 ~~each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes,~~  
20 ~~as the case requires.~~ On and after ~~January 1, 2003~~ July 1, 2009, the rate  
21 of such tax shall be ~~\$.79~~ \$1.54 on each 20 cigarettes or fractional part  
22 thereof or ~~\$.99~~ \$1.925 on each 25 cigarettes, as the case requires. *On and*  
23 *after July 1, 2010, the rate of such tax shall be \$1.58 on each 20 cigarettes*  
24 *or fractional part thereof or \$1.965 on each 25 cigarettes, as the case*  
25 *requires. On and after July 1, 2011, the rate of such tax shall be \$1.62 on*  
26 *each 20 cigarettes or fractional part thereof or \$2.005 on each 25 ciga-*  
27 *rettes, as the case requires. On and after July 1, 2012, the rate of such tax*  
28 *shall be \$1.66 on each 20 cigarettes or fractional part thereof or \$2.045*  
29 *on each 25 cigarettes, as the case requires. On and after July 1, 2013, the*  
30 *rate of such tax shall be \$1.70 on each 20 cigarettes or fractional part*  
31 *thereof or \$2.085 on each 25 cigarettes, as the case requires. On and after*  
32 *July 1, 2014, the rate of such tax shall be \$1.74 on each 20 cigarettes or*  
33 *fractional part thereof or \$2.125 on each 25 cigarettes, as the case re-*  
34 *quires.* Such tax shall be collected and paid to the director as provided in  
35 this act. Such tax shall be paid only once and shall be paid by the wholesale  
36 dealer first receiving the cigarettes as herein provided.

37  
38 (b) The taxes imposed by this act are hereby levied upon all sales of  
39 cigarettes made to any department, institution or agency of the state of  
40 Kansas, and to the political subdivisions thereof and their departments,  
41 institutions and agencies.

42 Sec. 2. K.S.A. 2008 Supp. 79-3310c is hereby amended to read as  
43 follows: 79-3310c. (1) On or before ~~July 30, 2002~~ July 31, 2009, each

1 wholesale dealer, retail dealer and vending machine operator shall file a  
2 report with the director in such form as the director may prescribe show-  
3 ing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m.  
4 on July 1, ~~2002~~ 2009. A tax of ~~\$.46~~ \$.75 on each 20 cigarettes or fractional  
5 part thereof or ~~\$.575~~ \$.935 on each 25 cigarettes, as the case requires  
6 and ~~\$.46 or \$.575~~ \$.75 or \$.935, as the case requires upon all tax stamps  
7 and all meter imprints purchased from the director and not affixed to  
8 cigarettes prior to July 1, ~~2002~~ 2009, is hereby imposed and shall be due  
9 and payable in equal installments on or before ~~July 30, 2002~~ July 31, 2009,  
10 on or before September 30, ~~2002~~ 2009, and on or before December 30,  
11 ~~2002~~ 2009. The tax imposed upon such cigarettes, tax stamps and meter  
12 imprints shall be imposed only once under this act. The director shall  
13 remit all moneys collected pursuant to this section to the state treasurer  
14 who shall credit the entire amount thereof to the state general fund.

15 (2) ~~On or before January 30, 2003, each wholesale dealer, retail~~  
16 ~~dealer and vending machine operator shall file a report with the director~~  
17 ~~in such form as the director may prescribe showing cigarettes, cigarette~~  
18 ~~stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A~~  
19 ~~tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on~~  
20 ~~each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case~~  
21 ~~requires upon all tax stamps and all meter imprints purchased from the~~  
22 ~~director and not affixed to cigarettes prior to January 1, 2003, is hereby~~  
23 ~~imposed and shall be due and payable in equal installments on or before~~  
24 ~~January 30, 2003, on or before March 30, 2003, and on or before June~~  
25 ~~30, 2003. The tax imposed upon such cigarettes, tax stamps and meter~~  
26 ~~imprints shall be imposed only once under this act. The director shall~~  
27 ~~remit all moneys collected pursuant to this section to the state treasurer~~  
28 ~~who shall credit the entire amount thereof to the state general fund. On~~  
29 ~~or before July 31, 2010, each wholesale dealer, retail dealer and vending~~  
30 ~~machine operator shall file a report with the director in such form as the~~  
31 ~~director may prescribe showing cigarettes, cigarette stamps and meter~~  
32 ~~imprints on hand at 12:01a.m. on July 1, 2010. A tax of \$.04 on each 20~~  
33 ~~cigarettes or fractional part thereof or \$.05 on each 25 cigarettes, as the~~  
34 ~~case requires and \$.04 and \$.05, as the case requires upon all tax stamps~~  
35 ~~and all meter imprints purchased from the director and not affixed to~~  
36 ~~cigarettes prior to July 1, 2010, is hereby imposed and shall be due and~~  
37 ~~payable in equal installments on or before July 31, 2010, on or before~~  
38 ~~September 30, 2010, and on or before December 30, 2010. The tax im-~~  
39 ~~posed upon such cigarettes, tax stamps and meter imprints shall be im-~~  
40 ~~posed only once under this act. The director shall remit all moneys col-~~  
41 ~~lected pursuant to this act to the state treasurer who shall credit the entire~~  
42 ~~amount thereof to the state general fund.~~

43 (3) *On or before July 31, 2011, each wholesale dealer, retail dealer*

1 *and vending machine operator shall file a report with the director in such*  
2 *form as the director may prescribe showing cigarettes, cigarette stamps*  
3 *and meter imprints on hand at 12:01a.m. on July 1, 2011. A tax of \$.04*  
4 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*  
5 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*  
6 *all tax stamps and all meter imprints purchased from the director and not*  
7 *affixed to cigarettes prior to July 1, 2011, is hereby imposed and shall be*  
8 *due and payable in equal installments on or before July 31, 2011, on or*  
9 *before September 30, 2011, and on or before December 30, 2011. The tax*  
10 *imposed upon such cigarettes, tax stamps and meter imprints shall be*  
11 *imposed only once under this act. The director shall remit all moneys*  
12 *collected pursuant to this act to the state treasurer who shall credit the*  
13 *entire amount thereof to the state general fund.*

14 (4) *On or before July 31, 2012, each wholesale dealer, retail dealer*  
15 *and vending machine operator shall file a report with the director in such*  
16 *form as the director may prescribe showing cigarettes, cigarette stamps*  
17 *and meter imprints on hand at 12:01a.m. on July 1, 2012. A tax of \$.04*  
18 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*  
19 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*  
20 *all tax stamps and all meter imprints purchased from the director and not*  
21 *affixed to cigarettes prior to July 1, 2012, is hereby imposed and shall be*  
22 *due and payable in equal installments on or before July 31, 2012, on or*  
23 *before September 30, 2012, and on or before December 30, 2012. The tax*  
24 *imposed upon such cigarettes, tax stamps and meter imprints shall be*  
25 *imposed only once under this act. The director shall remit all moneys*  
26 *collected pursuant to this act to the state treasurer who shall credit the*  
27 *entire amount thereof to the state general fund.*

28 (5) *On or before July 31, 2013, each wholesale dealer, retail dealer*  
29 *and vending machine operator shall file a report with the director in such*  
30 *form as the director may prescribe showing cigarettes, cigarette stamps*  
31 *and meter imprints on hand at 12:01a.m. on July 1, 2013. A tax of \$.04*  
32 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*  
33 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*  
34 *all tax stamps and all meter imprints purchased from the director and not*  
35 *affixed to cigarettes prior to July 1, 2013, is hereby imposed and shall be*  
36 *due and payable in equal installments on or before July 31, 2013, on or*  
37 *before September 30, 2013, and on or before December 30, 2013. The tax*  
38 *imposed upon such cigarettes, tax stamps and meter imprints shall be*  
39 *imposed only once under this act. The director shall remit all moneys*  
40 *collected pursuant to this act to the state treasurer who shall credit the*  
41 *entire amount thereof to the state general fund.*

42 (6) *On or before July 31, 2014, each wholesale dealer, retail dealer*  
43 *and vending machine operator shall file a report with the director in such*

1 *form as the director may prescribe showing cigarettes, cigarette stamps*  
2 *and meter imprints on hand at 12:01a.m. on July 1, 2014. A tax of \$.04*  
3 *on each 20 cigarettes or fractional part thereof or \$.05 on each 25 ciga-*  
4 *rettes, as the case requires and \$.04 and \$.05, as the case requires upon*  
5 *all tax stamps and all meter imprints purchased from the director and not*  
6 *affixed to cigarettes prior to July 1, 2014, is hereby imposed and shall be*  
7 *due and payable in equal installments on or before July 31, 2014, on or*  
8 *before September 30, 2014, and on or before December 30, 2014. The tax*  
9 *imposed upon such cigarettes, tax stamps and meter imprints shall be*  
10 *imposed only once under this act. The director shall remit all moneys*  
11 *collected pursuant to this act to the state treasurer who shall credit the*  
12 *entire amount thereof to the state general fund.*

13 Sec. 3. K.S.A. 2008 Supp. 79-3311 is hereby amended to read as  
14 follows: 79-3311. The director shall design and designate indicia of tax  
15 payment to be affixed to each package of cigarettes as provided by this  
16 act. The director shall sell water applied stamps only to licensed wholesale  
17 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by  
18 the heat process shall be sold only in amounts of 30,000 or multiples  
19 thereof, except that such stamps which are suitable for packages contain-  
20 ing 25 cigarettes each shall be sold in amounts prescribed by the director.  
21 Meter imprints shall be sold only in amounts of 10,000 or multiples  
22 thereof. Water applied stamps in amounts of 10,000 or multiples thereof  
23 and stamps applied by the heat process and meter imprints shall be sup-  
24 plied to wholesale dealers at a discount of ~~.90% on and after July 1, 2002,~~  
25 ~~and before January 1, 2003, and .80%~~ .41% on and after July 1, 2009,  
26 .40% on and after July 1, 2010, .39% on and after July 1, 2011, .38% on  
27 and after July 1, 2012, .37% on and after July 1, 2013, .36% on and after  
28 July 1, 2014, and thereafter from the face value thereof, and shall be  
29 deducted at the time of purchase or from the remittance therefor as  
30 hereinafter provided. Any wholesale cigarette dealer who shall file with  
31 the director a bond, of acceptable form, payable to the state of Kansas  
32 with a corporate surety authorized to do business in Kansas, shall be  
33 permitted to purchase stamps, and remit therefor to the director within  
34 30 days after each such purchase, up to a maximum outstanding at any  
35 one time of 85% of the amount of the bond. Failure on the part of any  
36 wholesale dealer to remit as herein specified shall be cause for forfeiture  
37 of such dealer's bond. All revenue received from the sale of such stamps  
38 or meter imprints shall be remitted to the state treasurer in accordance  
39 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon  
40 receipt of each such remittance, the state treasurer shall deposit the entire  
41 amount in the state treasury. The state treasurer shall first credit such  
42 amount as the director shall order to the cigarette tax refund fund and  
43 shall credit the remaining balance to the state general fund. A refund

1 fund designated the cigarette tax refund fund not to exceed \$10,000 at  
2 any time shall be set apart and maintained by the director from taxes  
3 collected under this act and held by the state treasurer for prompt pay-  
4 ment of all refunds authorized by this act. Such cigarette tax refund fund  
5 shall be in such amount as the director shall determine is necessary to  
6 meet current refunding requirements under this act.

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

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

37 Sec. 4. K.S.A. 2008 Supp. 79-3312 is hereby amended to read as  
38 follows: 79-3312. The director shall redeem any unused stamps or meter  
39 imprints that any wholesale dealer presents for redemption within six  
40 months after the purchase thereof, at the face value less ~~.90% on and~~  
41 ~~after July 1, 2002, and before January 1, 2003, and .80%~~ *.41% on and*  
42 *after July 1, 2009, .40% on and after July 1, 2010, .39% on and after July*  
43 *1, 2011, .38% on and after July 1, 2012, .37% on and after July 1, 2013,*

1 .36% on and after July 1, 2014, and thereafter thereof if such stamps or  
2 meter imprints have been purchased from the director. The director shall  
3 prepare a voucher showing the net amount of such refund due, and the  
4 director of accounts and reports shall draw a warrant on the state treasurer  
5 for the same. Wholesale dealers shall be entitled to a refund of the tax  
6 paid on cigarettes which have become unfit for sale upon proof thereof  
7 less ~~.90% on and after July 1, 2002, and before January 1, 2003, and .80%~~  
8 ~~.41% on and after July 1, 2009, .40% on and after July 1, 2010, .39% on~~  
9 ~~and after July 1, 2011, .38% on and after July 1, 2012, .37% on and after~~  
10 ~~July 1, 2013, .36% on and after July 1, 2014, and thereafter of such tax.~~

11 Sec. 5. K.S.A. 79-3371 is hereby amended to read as follows: 79-  
12 3371. A tax is hereby imposed upon the privilege of selling or dealing in  
13 tobacco products in this state by any person engaged in business as a  
14 distributor thereof, at the rate of ~~ten percent (10%)~~ 57% of the wholesale  
15 sales price of such tobacco products. Such tax shall be imposed at the  
16 time the distributor (a) brings or causes to be brought into this state from  
17 without the state tobacco products for sale; (b) makes, manufactures, or  
18 fabricates tobacco products in this state for sale in this state; or (c) ships  
19 or transports tobacco products to retailers in this state to be sold by those  
20 retailers.

21 New Sec. 6. On or before July 31, 2009, each distributor having a  
22 place of business in this state shall file a report with the director in such  
23 form as the director may prescribe, showing the tobacco products on hand  
24 at 12:01 a.m. on July 1, 2009. A tax at a rate equal to 47% of the wholesale  
25 sales price of such tobacco products is hereby imposed upon such tobacco  
26 products and shall be due and payable on or before July 31, 2009. The  
27 tax upon such tobacco products shall be imposed only once under this  
28 act. The director shall remit all moneys collected pursuant to this section  
29 to the state treasurer who shall credit the entire amount thereof to the  
30 state general fund.

31 Sec. 7. K.S.A. 79-3378 is hereby amended to read as follows: 79-  
32 3378. On or before the ~~twentieth~~ 20th day of each calendar month every  
33 distributor with a place of business in this state shall file a return with  
34 the director showing the quantity and wholesale sales price of each to-  
35 bacco product (1) brought, or caused to be brought, into this state for  
36 sale; and (2) made, manufactured, or fabricated in this state for sale in  
37 this state during the preceding calendar month. Every licensed distributor  
38 outside this state shall in like manner file a return showing the quantity  
39 and wholesale sales price of each tobacco product shipped or transported  
40 to retailers in this state to be sold by those retailers, during the preceding  
41 calendar month. Returns shall be made upon forms furnished and pre-  
42 scribed by the director. Each return shall be accompanied by a remittance  
43 for the full tax liability shown therein, less ~~four percent (4%)~~ 7% of such

1 liability as compensation to reimburse the distributor for ~~his or her~~ ex-  
2 penses incurred in the administration of this act. As soon as practicable  
3 after any return is filed, the director shall examine the return. If the  
4 director finds that, ~~in his or her judgment,~~ the return is incorrect and any  
5 amount of tax is due from the distributor and unpaid, ~~he or she~~ *the di-*  
6 *rector* shall notify the distributor of the deficiency. If a deficiency dis-  
7 closed by the director's examination cannot be allocated by ~~him~~ *the di-*  
8 *rector* to a particular month or months, ~~he or she~~ *the director* may  
9 nevertheless notify the distributor that a deficiency exists and state the  
10 amount of tax due. Such notice shall be given to the distributor by reg-  
11 istered or certified mail.

12 New Sec. 8. (a) There is hereby created in the state treasury the  
13 health reform fund which shall be administered by the Kansas health  
14 policy authority. All expenditures from the health reform fund shall be  
15 made in accordance with appropriation acts upon warrants of the director  
16 of accounts and reports issued pursuant to vouchers approved by the  
17 Kansas health policy authority or its designee.

18 (b) On or before the 10th day of each month, the director of accounts  
19 and reports shall transfer from the state general fund to the health reform  
20 fund interest earnings based on (1) the average daily balance of moneys  
21 in the health reform fund and (2) the net earnings of the pooled money  
22 investment portfolio for the preceding month.

23 (c) On January 1, 2010, the director of accounts and reports shall  
24 transfer \$87.36 million from the state general fund to the health reform  
25 fund. On January 1, 2011, the director of accounts and reports shall trans-  
26 fer \$77.55 million from the state general fund to the health reform fund.  
27 On January 1, 2012, the director of accounts and reports shall transfer  
28 \$76.51 million from the state general fund to the health reform fund. On  
29 January 1, 2013, the director of accounts and reports shall transfer \$75.50  
30 million from the state general fund to the health reform fund. On January  
31 1, 2014, the director of accounts and reports shall transfer \$74.49 million  
32 from the state general fund to the health reform fund. On January 1,  
33 2015, and each January 1 thereafter, the director of accounts and reports  
34 shall transfer \$73.48 million from the state general fund to the health  
35 reform fund. All such transfers are subject to reduction under K.S.A. 75-  
36 6704, and amendments thereto.

37 Sec. 9. K.S.A. 79-3371 and 79-3378 and K.S.A. 2008 Supp. 79-3310,  
38 79-3310c, 79-3311 and 79-3312 are hereby repealed.

39 Sec. 10. This act shall take effect and be in force from and after its  
40 publication in the Kansas register.