

SENATE BILL No. 578

By Committee on Federal and State Affairs

3-16

10 AN ACT concerning the Kansas cigarette and tobacco products act; vi-
11 olations of act; licensing of retail dealers; amending K.S.A. 79-3304,
12 79-3309, 79-3371, 79-3373, 79-3374, 79-3375, 79-3377, 79-3378 and
13 79-3379 and K.S.A. 2009 Supp. 50-6a07, 79-3301, 79-3302, 79-3303,
14 79-3310, 79-3311, 79-3312, 79-3316, 79-3321 and 79-3333 and re-
15 pealing the existing sections; also repealing K.S.A. 2009 Supp. 79-
16 3310c.

17

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

19 ***[New Section 1. (a) No supplier of novelty cigarette lighters in***
20 ***this state, including a manufacturer, distributor, importer, retailer***
21 ***or anyone giving away lighters as prizes or promotions, shall sell***
22 ***or give away a novelty lighter. This prohibition does not apply to***
23 ***the transportation of novelty lighters through this state or the stor-***
24 ***age of novelty lighters in a warehouse or distribution center in this***
25 ***state that is closed to the public for purposes of retail sales.***

26 ***[(b) The provisions of this section shall be enforced by the sec-***
27 ***retary of the department of revenue. The secretary may adopt rules***
28 ***and regulations necessary to implement the provisions of this sec-***
29 ***tion. The secretary or the secretary's designee, upon a finding that***
30 ***a person has violated this section shall impose on such person a civil***
31 ***fine not exceeding \$500 for each violation.***

32 ***[(c) Any fine collected pursuant to this section shall be remitted***
33 ***to the state treasurer in accordance with the provisions of K.S.A.***
34 ***75-4215, and amendments thereto. Upon receipt of each such re-***
35 ***mittance, the state treasurer shall deposit the entire amount in the***
36 ***state treasury to the credit of the cigarette and tobacco products***
37 ***regulation fund.***

38 ***[(d) (1) For the purposes of this section, "novelty lighter"***
39 ***means a mechanical or electrical device typically used for lighting***
40 ***cigarettes, cigars, or pipes that has entertaining audio or visual ef-***
41 ***fects, or that resembles, in physical form or function, articles com-***
42 ***monly recognized as appealing to or intended for use by children***
43 ***10 years of age or younger. This includes, but is not limited to,***

1 *lighters that resemble cartoon characters, toys, guns, watches, mu-*
2 *sical instruments, vehicles, toy animals, food or beverages, or that*
3 *play musical notes or have flashing lights or other entertaining fea-*
4 *tures. A novelty lighter may operate on any fuel, including butane*
5 *or liquid fuel.*

6 *[(2) The term “novelty lighter” shall not include: (A) A lighter*
7 *incapable of being fueled or lacking a device necessary to produce*
8 *combustion or a flame; or (B) any mechanical or electrical device*
9 *primarily used to ignite fuel for fireplaces or for charcoal or gas*
10 *grills.*

11 *[(e) This section shall be part of and supplemental to the Kansas*
12 *cigarette and tobacco products act.]*

13 ~~Section 1.~~ **[Sec. 2.]** K.S.A. 2009 Supp. 50-6a07 is hereby amended
14 to read as follows: 50-6a07. As used in this act:

15 (a) “Act” means the provisions of K.S.A. 50-6a01 through 50-6a06,
16 and amendments thereto, and the provisions of K.S.A. 2009 Supp. 50-
17 6a07 through 50-6a21, and amendments thereto.

18 (b) “Brand family” means all styles of cigarettes sold under the same
19 trademark and differentiated from one another by means of additional
20 modifiers or descriptors, including, but not limited to, “menthol,”
21 “lights,” “kings,” and “100s,” and includes any brand name (alone or in
22 conjunction with any other word), trademark, logo, symbol, motto, selling
23 message, recognizable pattern of colors or any other indicia of product
24 identification identical, similar to or identifiable with a previously known
25 brand of cigarettes.

26 (c) “Cigarette” has the same meaning given that term in subsection
27 (d) of K.S.A. 50-6a02, and amendments thereto.

28 (d) “Director” means the director of taxation.

29 (e) “Master settlement agreement” has the same meaning given that
30 term in subsection (e) of K.S.A. 50-6a02, and amendments thereto.

31 (f) “Non-participating manufacturer” means any tobacco product
32 manufacturer that is not a participating manufacturer.

33 (g) “Participating manufacturer” has the meaning given that term in
34 subsection (i)(1) of K.S.A. 50-6a02, and amendments thereto.

35 (h) “Qualified escrow fund” has the same meaning given that term
36 in subsection (f) of K.S.A. 50-6a02, and amendments thereto.

37 (i) “Resident agent” means a domestic corporation, a domestic lim-
38 ited partnership, a domestic limited liability company or a domestic busi-
39 ness trust or a foreign corporation, a foreign limited partnership, a foreign
40 limited liability company or a foreign business trust authorized to transact
41 business in this state, and which is generally open during regular business
42 hours to accept service of process on behalf of a non-participating
43 manufacturer.

- 1 (j) “Retail dealer” has the same meaning given that term in ~~subsec-~~
2 ~~tion (q) of~~ K.S.A. 79-3301, and amendments thereto.
- 3 (k) “Stamping agent” means a person who is authorized to affix tax
4 indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amend-
5 ments thereto, or any person who is required to pay the tax on the priv-
6 ilege of selling or dealing in roll-your-own tobacco products pursuant to
7 K.S.A. 79-3371, and amendments thereto.
- 8 (l) “Tax indicia” has the same meaning given that term in ~~subsection~~
9 ~~(u) of~~ K.S.A. 79-3301, and amendments thereto.
- 10 (m) “Tobacco product manufacturer” has the same meaning given
11 that term in subsection (i) of K.S.A. 50-6a02, and amendments thereto.
- 12 (n) “Units sold” has the same meaning given that term in ~~subsection~~
13 ~~(j) of~~ K.S.A. 50-6a02, and amendments thereto.
- 14 (o) “Vending machine operator” has the same meaning given that
15 term in ~~subsection (y) of~~ K.S.A. 79-3301, and amendments thereto.
- 16 Sec. ~~2~~ **[3.]** K.S.A. 2009 Supp. 79-3301 is hereby amended to read
17 as follows: 79-3301. As used in this act:
- 18 (a) “Carrier” means one who transports cigarettes from a manufac-
19 turer to a wholesale dealer or from one wholesale dealer to another.
- 20 (b) “Carton” means the container used by the manufacturer of cig-
21 arettes in which no more than 10 packages of cigarettes are placed prior
22 to shipment from such manufacturer.
- 23 (c) “Cigarette” means any roll for smoking, made wholly or in part
24 of tobacco, irrespective of size or shape, and irrespective of tobacco being
25 flavored, adulterated or mixed with any other ingredient if the wrapper
26 is in greater part made of any material except tobacco.
- 27 (d) “Consumer” means the person purchasing or receiving cigarettes
28 or tobacco products for final use.
- 29 (e) “Dealer” means any person who engages in the sale or manufac-
30 ture of cigarettes in the state of Kansas, and who is required to be licensed
31 under the provisions of this act.
- 32 (f) “Dealer establishment” means any location or premises, other
33 than vending machine locations, at or from which cigarettes are sold, and
34 where records are kept.
- 35 (g) “Director” means the director of taxation.
- 36 (h) “Distributor” means: (1) Any person engaged in the business of
37 selling tobacco products in this state who brings, or causes to be brought,
38 into this state from ~~without~~ *outside* the state any tobacco products for
39 sale; (2) any person who makes, manufactures, fabricates or stores tobacco
40 products in this state for sale in this state; or (3) any person engaged in
41 the business of selling tobacco products ~~without~~ *outside* this state who
42 ships or transports tobacco products to any person in the business of
43 selling tobacco products in this state.

- 1 (i) “Division” means the division of taxation.
- 2 (j) “License” means, in addition to the privilege of a licensee to sell
3 cigarettes or tobacco products in the state of Kansas, the written evidence
4 of such authority or privilege to so operate as evidenced by any license
5 issued by the director of taxation.
- 6 (k) “Licensee” means any person holding a current license issued
7 pursuant to this act, *or any person whose license expired and who sub-*
8 *mitted a renewal application which was received by the director prior to*
9 *expiration of the previous licensing period.*
- 10 (l) “Manufacturer’s salesperson” means a person employed by a cig-
11 arette manufacturer who sells cigarettes, manufactured by such employer
12 and procured from wholesale dealers.
- 13 ~~(m) “Meter imprints” means tax indicia applied by means of ink print-~~
14 ~~ing machines.~~
- 15 ~~(n) (1) (m) “Package” means: (1) A container in which no more than~~
16 ~~25 individual cigarettes are wrapped and sealed by the manufacturer of~~
17 ~~cigarettes prior to shipment to a wholesale dealer.~~
- 18 (2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-
19 3321, and amendments thereto, “package” ~~shall have the meaning as-~~
20 ~~cribed thereto~~ *has the same meaning as provided in 15 U.S.C. §1332(4).*
- 21 ~~(n) “Person” means any individual, partnership, society, associa-~~
22 ~~tion, joint-stock company, corporation, estate, receiver, trustee, assignee,~~
23 ~~referee or any other person acting in a fiduciary or representative capacity~~
24 ~~whether appointed by a court or otherwise and any combination of~~
25 ~~individuals.~~
- 26 ~~(o) “Received” means the coming to rest of cigarettes for sale by~~
27 ~~any dealer in the state of Kansas.~~
- 28 ~~(p) “Retail dealer” means a person, other than a vending machine~~
29 ~~operator, in possession of cigarettes or other tobacco products for the~~
30 ~~purpose of sale to a consumer.~~
- 31 (q) “Revocation” means *termination by formal action of a license is-*
32 *sued under this act or the privilege to operate as granted thereunder.*
- 33 (r) “Sale” means any transfer of title or possession or both, exchange,
34 barter, distribution or gift of cigarettes or tobacco products, with or with-
35 out consideration.
- 36 (s) “Sample” means cigarettes or tobacco products distributed to
37 members of the general public at no cost for purposes of promoting the
38 product.
- 39 (t) “Stamps” means tax indicia applied either by means of ~~water ap-~~
40 ~~plied gummed paper or~~ *heat process or pressure.*
- 41 (u) “Tax indicia” means visible evidence of tax payment in the form
42 of stamps ~~or meter imprints.~~
- 43 (v) “Tobacco products” means cigars, cheroots, stogies, periques;

- 1 *blunt wrappers*; granulated, plug cut, crimp cut, ready rubbed and other
 2 smoking tobacco; snuff, snuff flour, *moist snuff*; cavendish; plug and twist
 3 tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clip-
 4 pings, cuttings and sweepings of tobacco, *cigarette wrappers made of*
 5 *tobacco* and other kinds and forms of tobacco, prepared in such manner
 6 as to be suitable for chewing or smoking in a pipe or otherwise, or both
 7 for chewing and smoking. Tobacco products does not include cigarettes.
- 8 (w) “Vending machine” means any coin operated machine, contri-
 9 vance or device, by means of which merchandise may be sold.
- 10 (x) “Vending machine distributor” means any person who sells ciga-
 11 rette vending machines to a vending machine operator operating vending
 12 machines in the state of Kansas.
- 13 (y) “Vending machine operator” means any person who places a
 14 vending machine, owned, leased or operated by such person, at locations
 15 where cigarettes are sold from the machine. The owner or lessee of the
 16 premises upon which a vending machine is placed shall not be considered
 17 the operator of the machine, nor shall the owner or lessee, or any em-
 18 ployee or agent of the owner or lessee be considered an authorized agent
 19 of the vending machine operator, if the owner or lessee does not own or
 20 lease the machine and the owner’s or lessee’s sole remuneration from the
 21 machine is a flat rental fee or commission based upon the number or
 22 value of cigarettes sold from the machine, or a combination of both.
- 23 (z) “Wholesale dealer” means any person who sells cigarettes to other
 24 wholesale dealers, retail dealers, vending machine operators and manu-
 25 facturer’s salespersons for the purpose of resale in the state of Kansas.
- 26 (aa) “Wholesale sales price” means the original net invoice price for
 27 which a manufacturer sells a tobacco product to a distributor, as shown
 28 by the manufacturer’s original invoice.
- 29 (bb) “Importer” ~~shall have the same meaning ascribed thereto~~ *has*
 30 *the same meaning as provided* in 26 U.S.C. §5702(l).
- 31 (cc) “Manufacturer” ~~shall have the same meaning ascribed thereto~~
 32 *has the same meaning as provided* in 26 U.S.C. §5702(d)(k).
- 33 Sec. ~~3~~ **[4.]** K.S.A. 2009 Supp. 79-3302 is hereby amended to read
 34 as follows: 79-3302. (a) ~~K.S.A. 79-3301 through 79-3304, 79-3306, 79-~~
 35 ~~3309, 79-3310, 79-3311, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321,~~
 36 ~~79-3322, 79-3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3371, 79-~~
 37 ~~3373, 79-3374, 79-3375, 79-3377, 79-3378, 79-3379, 79-3387, 79-3388,~~
 38 ~~79-3391, 79-3392, 79-3393, 79-3394 and K.S.A. 2009 Supp. 79-3395~~
 39 ~~through 79-3398, and amendments thereto, The provisions of article 33~~
 40 *of this chapter shall be known and may be cited as the Kansas cigarette*
 41 *and tobacco products act.*
- 42 (b) It is the purpose and intent of this act to regulate the sale of
 43 cigarettes and tobacco products in this state and to impose a tax thereon.

1 Sec. ~~4~~ [5.] K.S.A. 2009 Supp. 79-3303 is hereby amended to read
2 as follows: 79-3303. (a) Each person engaged in the business of selling
3 cigarettes in the state of Kansas and each vending machine distributor
4 shall obtain a license as provided by this act. A separate application, li-
5 cense and fee is required for each dealer establishment owned or oper-
6 ated by a dealer. A vending machine operator is required to obtain a
7 vending machine operator's master license and, in addition, a separate
8 permit for each vending machine operated by the operator. A vending
9 machine operator may submit one application for the vending machine
10 operator's master license and all permits for vending machines operated
11 by the operator. The license shall be displayed in the dealer establishment
12 and the vending machine permit shall remain securely and visibly at-
13 tached to the vending machine and contain such information as the di-
14 rector may require. Any vending machine found without such permit
15 attached to the machine shall be sealed by an agent of the director and
16 such seal shall be removed only by an agent of the director after payment
17 of the permit fee and the penalties provided by this act.

18 (b) The application for a vending machine operator's master license
19 and vending machine permits shall list the brand name and serial number
20 of each machine and such other information as required by the director.
21 Except in accordance with proper judicial order or as otherwise provided
22 by law, it shall be unlawful for any officer or employee of the division to
23 divulge or make known in any way the location of any vending machine
24 to any person not an officer or employee of the division, except that such
25 information may be divulged to any law enforcement officer for use in
26 the officer's official duties. Any officer or employee revealing any such
27 location in violation of this provision, in addition to the penalties otherwise
28 provided in this act, shall be dismissed from office.

29 (c) A vending machine operator, in the course of business as a vend-
30 ing machine operator, may dispose of or sell vending machines without
31 securing a license to sell vending machines. The vending machine oper-
32 ator may move vending machines from one location to another and, if a
33 vending machine becomes inoperative or is disposed of, the permit for
34 such machine may be transferred to another machine. A vending machine
35 operator, within 10 days, shall notify the director of the brand name and
36 serial number of vending machines that become inoperative or that the
37 operator disposes of, sells, acquires or brings into service in this state as
38 additional machines.

39 (d) The key to the lower or storage compartment of a vending ma-
40 chine shall remain only in the possession of the vending machine operator
41 or the operator's authorized agent. All services connected with the op-
42 eration of a vending machine shall be performed by the vending machine
43 operator or the operator's authorized agent. All vending machines shall

1 be subject to inspection by the director or the director's authorized
2 agents. No permit shall be issued for a vending machine unless it is con-
3 structed so that at least one package of each vertical column of cigarettes
4 located therein is visible showing tax indicia.

5 (e) All vending machines operated on military installations shall have
6 a permit affixed to the machines and the cigarettes shall show tax indicia
7 of the Kansas tax.

8 (f) On or before the 10th day of each month, each vending machine
9 distributor shall report to the director, on forms provided by the director,
10 all sales of cigarette vending machines by the distributor to persons in
11 the state of Kansas during the preceding month; the name and address
12 of the purchaser; and the brand name, serial number and sale price of
13 the machines. *The director may require such reports to be filed electron-*
14 *ically.*

15 (g) Concurrently with a change in ownership of a dealer establish-
16 ment the license applicable to the establishment is void and shall be sur-
17 rendered to the director and shall not be transferred. On removal of a
18 dealer establishment from one location to another, the owner of the es-
19 tablishment shall notify the director and surrender the owner's license.
20 The director shall issue a new license for the unexpired term of the sur-
21 rendered license on payment of a fee of \$2. If a dealer's license is lost,
22 stolen or destroyed, the director may issue a new license on proof of loss,
23 theft or destruction, at a cost of \$2. The director shall remit all moneys
24 received under this subsection to the state treasurer in accordance with
25 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
26 of each such remittance, the state treasurer shall deposit the entire
27 amount in the state treasury to the credit of the state general fund.

28 Sec. ~~5~~ **[6.]** K.S.A. 79-3304 is hereby amended to read as follows:
29 79-3304. (a) The license fee for each biennium or portion thereof shall
30 be as follows:

- 31 (1) For retail dealer's license, \$25 for each dealer establishment.
 - 32 (2) For retailer's license on railroad or sleeping cars, \$50. Only one
33 retail license need be obtained by each railroad or sleeping car company
34 to permit the sale of cigarettes on any or all of its cars within the state.
 - 35 (3) For show, carnival or catering license, \$50 for each concession.
 - 36 (4) For resident retail dealer's temporary license for a place of busi-
37 ness of a temporary nature, \$2 for each seven days or portion thereof.
 - 38 (5) For wholesale dealer's license, \$50 for each dealer establishment.
- 39 No wholesale dealer's license shall be issued until the person applying
40 therefor has filed with the director a bond payable to the state of Kansas
41 in such an amount as shall be fixed by the director, but in no event less
42 than \$1,000, with a corporate surety authorized to do business in the state
43 of Kansas, and approved by the director. If a wholesale dealer is unable

1 to secure a corporate surety bond, the director may issue a license to such
2 wholesale dealer, upon the wholesale dealer furnishing a personal bond
3 meeting the approval of the director. Such bond shall be conditioned on
4 the wholesale dealer's compliance with all the provisions of this act during
5 the license period.

6 (6) For vending machine distributor's license, \$50.

7 (7) For manufacturer's salesperson license, \$20 for each salesperson.

8 The manufacturer's salesperson shall, with respect to each sale made to
9 a retail dealer, make and deliver to the retail dealer a true invoice wherein
10 such salesperson shall insert the name of the wholesale dealer from whom
11 such salesperson secured such cigarettes, together with such salesperson's
12 own name and the name of the retail dealer purchasing the cigarettes.

13 (8) For vending machine operator's license, no fee.

14 (9) For vending machine permit, \$25 for each permit.

15 (b) An application for any license required under the provisions of
16 this act may be refused to: ~~(1) A person who is not of good character and~~
17 ~~reputation in the community in which such person resides; or (2) a person~~
18 ~~who has been convicted of a felony or of any crime involving moral tur-~~
19 ~~pitude or of the violation of any law of any state or the United States~~
20 ~~pertaining to cigarettes or tobacco products and who has not completed~~
21 ~~the sentence, parole, probation or assignment to a community correc-~~
22 ~~tional services program imposed for any such conviction within two years~~
23 ~~immediately preceding the date of making application for any of such~~
24 ~~licenses.~~ *any applicant who: (1) Has been convicted of a felony under the*
25 *laws of this state, any other state or the United States; (2) has been con-*
26 *vinced of a violation of any law of this state or any other state or the*
27 *United States pertaining to any regulated substance [within 10 years*
28 *preceding the date of making an application for such license]; or (3)*
29 *has had a license revoked under the provisions of this act within 10 years*
30 *preceding the date of making an application for such license. The term*
31 *"applicant" shall include the president, vice president, secretary, trea-*
32 *surer, manager, member or any other officer, owner or majority share-*
33 *holder if the license holder is a corporation, limited liability corporation,*
34 *partnership or other business entity.*

35 Sec. ~~6~~ **[7.]** K.S.A. 79-3309 is hereby amended to read as follows:
36 79-3309. (a) Whenever the director has reason to believe that any person
37 licensed under this act has violated any of the provisions of this act, the
38 director shall notify the person by certified mail of the director's intention
39 to suspend or revoke the person's license or licenses. Within 10 days after
40 the mailing of the notice, the person may request a hearing in writing
41 before the director. The hearing shall be conducted in accordance with
42 the provisions of the Kansas administrative procedure act. If, after such
43 hearing, it appears to the satisfaction of the director that the person has

1 violated any of the provisions of this act, the director is hereby authorized
2 and empowered to suspend or revoke the person's license or licenses ~~and~~
3 *Any license which is revoked shall not be subject to renewal or restoration,*
4 *except that an application for a new license may be submitted to and acted*
5 *upon by the director after the expiration of 10 years. The director may in*
6 *addition deny the application of the person for a license or licenses for a*
7 *portion of the succeeding calendar year for such period as the director*
8 *determines is necessary but in no case for a period ending more than one*
9 *year following the date upon which the license or licenses were suspended*
10 ~~*or revoked.*~~ *The suspension or revocation of a vending machine operator's*
11 *master license shall suspend or revoke all vending machine permits issued*
12 *to the vending machine operator for the term of the license suspension*
13 *or revocation. If a person continues to engage in activities requiring a*
14 *license while such license is suspended, the license shall be immediately*
15 *revoked and additional fines and penalties may apply pursuant to this*
16 *act.*

17 (b) If a person continues to engage in activities requiring a license
18 under this act after having notice or knowledge of the suspension or
19 revocation of the person's license or licenses or after becoming more than
20 10 days delinquent in the payment of any tax, penalty or interest imposed
21 pursuant to this act, the state shall be entitled, in any proceedings brought
22 for such purposes, to have an order and judgment restraining and enjoin-
23 ing such unlawful sale and no bond shall be required for the issuance of
24 any such restraining order or injunction.

25 Sec. ~~7.~~ [8.] K.S.A. 2009 Supp. 79-3310 is hereby amended to read
26 as follows: 79-3310. There is imposed a tax upon all cigarettes sold, dis-
27 tributed or given away within the state of Kansas. ~~On and after July 1,~~
28 ~~2002, and before January 1, 2003, the rate of such tax shall be \$.70 on~~
29 ~~each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes,~~
30 ~~as the case requires. On and after January 1, 2003, The rate of such tax~~
31 ~~shall be \$.79 on each 20 cigarettes or fractional part thereof or \$.99 on~~
32 ~~each 25 cigarettes, as the case requires. Such tax shall be collected and~~
33 ~~paid to the director as provided in this act. Such tax shall be paid only~~
34 ~~once and shall be paid by the wholesale dealer first receiving the cigarettes~~
35 ~~as herein provided. For any purchaser of cigarettes on which such tax has~~
36 ~~not been paid by the wholesale dealer, the director of taxation may pro-~~
37 ~~ceed directly against such purchaser to collect the full amount of tax due.~~
38 ~~A purchaser of cigarettes includes a consumer as defined in K.S.A. 79-~~
39 ~~3301, and amendments thereto.~~

40 The taxes imposed by this act are hereby levied upon all sales of ciga-
41 rattes made to any department, institution or agency of the state of Kan-
42 sas, and to the political subdivisions thereof and their departments, insti-
43 tutions and agencies.

1 Sec. ~~8.~~ **[9.]** K.S.A. 2009 Supp. 79-3311 is hereby amended to read
2 as follows: 79-3311. The director shall design and designate indicia of tax
3 payment to be affixed to each package of cigarettes as provided by this
4 act. The director shall sell water applied stamps only to licensed wholesale
5 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by
6 the heat process shall be sold only in amounts of 30,000 or multiples
7 thereof, except that such stamps which are suitable for packages contain-
8 ing 25 cigarettes each shall be sold in amounts prescribed by the director.
9 ~~Meter imprints shall be sold only in amounts of 10,000 or multiples~~
10 ~~thereof. Water applied stamps in amounts of 10,000 or multiples thereof~~
11 ~~and~~ Stamps applied by the heat process ~~and meter imprints~~ shall be sup-
12 plied to wholesale dealers at a discount of .90% on and after July 1, 2002,
13 ~~and before January 1, 2003, and .80% thereafter~~ from the face value
14 thereof, and shall be deducted at the time of purchase or from the re-
15 mittance therefor as hereinafter provided. Any wholesale cigarette dealer
16 who shall file with the director a bond, of acceptable form, payable to the
17 state of Kansas with a corporate surety authorized to do business in Kan-
18 sas, shall be permitted to purchase stamps, and remit therefor to the
19 director within 30 days after each such purchase, up to a maximum out-
20 standing at any one time of 85% of the amount of the bond. Failure on
21 the part of any wholesale dealer to remit as herein specified shall be cause
22 for forfeiture of such dealer's bond. All revenue received from the sale
23 of such stamps ~~or meter imprints~~ shall be remitted to the state treasurer
24 in accordance with the provisions of K.S.A. 75-4215, and amendments
25 thereto. Upon receipt of each such remittance, the state treasurer shall
26 deposit the entire amount in the state treasury. The state treasurer shall
27 first credit such amount as the director shall order to the cigarette tax
28 refund fund and shall credit the remaining balance to the state general
29 fund. A refund fund designated the cigarette tax refund fund not to ex-
30 ceed \$10,000 at any time shall be set apart and maintained by the director
31 from taxes collected under this act and held by the state treasurer for
32 prompt payment of all refunds authorized by this act. Such cigarette tax
33 refund fund shall be in such amount as the director shall determine is
34 necessary to meet current refunding requirements under this act.

35 The wholesale cigarette dealer shall affix to each package of cigarettes
36 stamps ~~or tax meter imprints~~ required by this act prior to the sale of
37 cigarettes to any person, by such dealer or such dealer's agent or agents,
38 within the state of Kansas. ~~The director is empowered to authorize whole-~~
39 ~~sale dealers to affix revenue tax meter imprints upon original packages of~~
40 ~~cigarettes and is charged with the duty of regulating the use of tax meters~~
41 ~~to secure payment of the proper taxes. No wholesale dealer shall affix~~
42 ~~revenue tax meter imprints to original packages of cigarettes without first~~
43 ~~having obtained permission from the director to employ this method of~~

1 affixation. If the director approves the wholesale dealer's application for
 2 permission to affix revenue tax meter imprints to original packages of
 3 cigarettes, the director shall require such dealer to file a suitable bond
 4 payable to the state of Kansas executed by a corporate surety authorized
 5 to do business in Kansas. The director may, to assure the proper collection
 6 of taxes imposed by the act, revoke or suspend the privilege of imprinting
 7 tax meter imprints upon original packages of cigarettes. All meters shall
 8 be under the direct control of the director, and all transfer assignments
 9 or anything pertaining thereto must first be authorized by the director.
 10 All inks used in the stamping of cigarettes must be of a special type
 11 devised for use in connection with the machine employed and approved
 12 by the director. All repairs to the meter are strictly prohibited except by
 13 a duly authorized representative of the director. Requests for service shall
 14 be directed to the director. Meter machine ink imprints on all packages
 15 shall be clear and legible. If a wholesale dealer continuously issues illeg-
 16 ible cigarette tax meter imprints, it shall be considered sufficient cause
 17 for revocation of such dealer's permit to use a cigarette tax meter. *Cig-
 18 arette stamps shall be securely affixed in a manner that preserves the
 19 legibility of the serial numbers and other identifying characteristics of the
 20 stamp. If a wholesale dealer continuously issues illegible stamped ciga-
 21 rettes, it shall be considered sufficient cause for an administrative fine,
 22 suspension or revocation, or combination thereof.*

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

27 ~~Sec. 9.~~ **[10.]** K.S.A. 2009 Supp. 79-3312 is hereby amended to read
 28 as follows: 79-3312. The director shall redeem any unused stamps ~~or~~
 29 ~~meter imprints~~ that any wholesale dealer presents for redemption within
 30 six months after the purchase thereof, at the face value less ~~.90% on and~~
 31 ~~after July 1, 2002, and before January 1, 2003, and .80% thereafter~~ thereof
 32 if such stamps ~~or meter imprints~~ have been purchased from the director.
 33 The director shall prepare a voucher showing the net amount of such
 34 refund due, and the director of accounts and reports shall draw a warrant
 35 on the state treasurer for the same. Wholesale dealers shall be entitled
 36 to a refund of the tax paid on cigarettes which have become unfit for sale
 37 upon proof thereof less ~~.90% on and after July 1, 2002, and before January~~
 38 ~~1, 2003, and .80% thereafter~~ of such tax.

39 ~~Sec. 10.~~ **[11.]** K.S.A. 2009 Supp. 79-3316 is hereby amended to read
 40 as follows: 79-3316. (a) All purchases of cigarettes by any dealer shall be
 41 evidenced by an invoice, a duplicate of which shall be furnished the party
 42 receiving the cigarettes from any dealer.

43 (b) Purchases of cigarettes by wholesale dealers shall be made from

1 the manufacturers of cigarettes or from other Kansas licensed wholesale
2 dealers. Purchases of cigarettes by retail dealers or vending machine op-
3 erators shall be from wholesale dealers.

4 (c) All invoices issued by wholesale dealers shall be in duplicate and
5 a copy must accompany the consigned cigarettes. Cigarettes sold by a
6 wholesale dealer to any other dealer shall be evidenced by invoices bear-
7 ing the vendee's name and license number. A wholesale dealer selling
8 cigarettes to a manufacturer's salesperson shall at the time of delivery of
9 same make a true duplicate invoice inserting therein the name of the
10 salesman together with the name of such salesperson's employer.

11 (d) All records pertaining to sales of cigarettes by dealers in the state
12 of Kansas shall be preserved for a period of three years and shall be
13 available for inspection by the director or the director's designee at the
14 dealer's place of business or, if the dealer has more than one place of
15 business in the state, at a central location of the dealer.

16 (e) Every wholesale dealer shall report to the director on or before
17 the 10th day of each month, stating the amount of cigarettes sold during
18 the preceding month and the amount of all cigarettes returned to the
19 manufacturer. Any wholesale dealer who refuses any shipment or part of
20 a shipment of unstamped cigarettes or has a shortage in the shipment of
21 cigarettes consigned to such dealer shall in the monthly report next fol-
22 lowing the refusal or shortage report to the director the number of pack-
23 ages or cartons of cigarettes refused or short and the name of the carrier
24 from whom the cigarettes were refused or shortage occurred. Such report
25 shall be made on forms provided by the director and shall contain such
26 other information as the director may require. *The director may require*
27 *such reports to be filed electronically.*

28 (f) Exemption from payment of cigarette tax on sale of cigarettes
29 made outside the state by any wholesale dealer shall be filed on forms
30 provided by the director.

31 Sec. ~~11~~ **[12.]** K.S.A. 2009 Supp. 79-3321 is hereby amended to read
32 as follows: 79-3321. It shall be unlawful for any person:

33 (a) To possess, except as otherwise specifically provided by this act,
34 more than 200 cigarettes without the required tax indicia being affixed as
35 herein provided.

36 (b) To mutilate or attach to any individual package of cigarettes any
37 stamp that has in any manner been mutilated or that has been heretofore
38 attached to a different individual package of cigarettes or to have in pos-
39 session any stamps so mutilated. *To affix any stamp in such a manner*
40 *that does not preserve the legibility of the serial number printed on the*
41 *stamp and other identifiable characteristics as determined by the director.*

42 (c) To prevent the director or any officer or agent authorized by law,
43 to make a full inspection for the purpose of this act, of any place of

- 1 business and all premises connected thereto where cigarettes are or may
2 be manufactured, sold, distributed, or given away.
- 3 (d) To use any artful device or deceptive practice to conceal any vi-
4 olation of this act or to mislead the director or officer or agent authorized
5 by law in the enforcement of this act.
- 6 (e) Who is a dealer to fail to produce on demand of the director or
7 any officer or agent authorized by law any records or invoices required
8 to be kept by such person.
- 9 (f) Knowingly to make, use, or present to the director or agent thereof
10 any falsified invoice or falsely state the nature or quantity of the goods
11 therein invoiced.
- 12 (g) Who is a dealer to fail or refuse to keep and preserve for the time
13 and in the manner required herein all the records required by this act to
14 be kept and preserved.
- 15 (h) To wholesale cigarettes to any person, other than a manufacturer's
16 salesperson, retail dealer or wholesaler who is:
- 17 (1) Duly licensed by the state where such manufacturer's salesperson,
18 retail dealer or wholesaler is located, or
- 19 (2) exempt from state licensing under applicable state or federal laws
20 or court decisions including any such person operating as a retail dealer
21 upon land allotted to or held in trust for an Indian tribe recognized by
22 the United States bureau of Indian affairs.
- 23 (i) To have in possession any evidence of tax indicia provided for
24 herein not purchased from the director.
- 25 (j) To fail or refuse to permit the director or any officer or agent
26 authorized by law to inspect a carrier transporting cigarettes.
- 27 (k) To vend small cigars, or any products so wrapped as to be con-
28 fused with cigarettes, from a machine vending cigarettes, nor shall a vend-
29 ing machine be so built to vend cigars or products that may be confused
30 with cigarettes, be attached to a cigarette vending machine.
- 31 (l) To sell, furnish or distribute cigarettes or tobacco products to any
32 person under 18 years of age.
- 33 (m) Who is under 18 years of age to purchase or attempt to purchase
34 cigarettes or tobacco products.
- 35 (n) Who is under 18 years of age to possess or attempt to possess
36 cigarettes or tobacco products.
- 37 (o) To sell cigarettes to a retailer or at retail that do not bear Kansas
38 tax indicia or upon which the Kansas cigarette tax has not been paid.
- 39 (p) To sell cigarettes without having a license for such sale as provided
40 herein.
- 41 (q) To sell a vending machine without having a vending machine dis-
42 tributor's license.
- 43 (r) Who is a retail dealer to fail to post and maintain in a conspicuous

1 place in the dealer's establishment the following notice: "By law, ciga-
2 rettes and tobacco products may be sold only to persons 18 years of age
3 and older."

4 (s) To distribute samples within 500 feet of any school when such
5 facility is being used primarily by persons under 18 years of age unless
6 the sampling is: (1) In an area to which persons under 18 years of age are
7 denied access; (2) in or at a retail location where cigarettes and tobacco
8 products are the primary commodity offered for sale at retail; or (3) at or
9 adjacent to an outdoor production, repair or construction site or facility.

10 (t) To sell cigarettes or tobacco products by means of a vending ma-
11 chine in any establishment, or portion of an establishment, which is open
12 to minors, ~~except that this subsection shall not apply to:~~

13 ~~—(1) The installation and use by the proprietor of the establishment,~~
14 ~~or by the proprietor's agents or employees, of vending machines behind~~
15 ~~a counter, or in some place in such establishment, or portion thereof, to~~
16 ~~which minors are prohibited by law from having access;~~

17 ~~—(2) the installation and use of a vending machine in a commercial~~
18 ~~building or industrial plant, or portions thereof, where the public is not~~
19 ~~customarily admitted and where machines are intended for the sole use~~
20 ~~of adult employees employed in the building or plant, or~~

21 ~~—(3) a vending machine which has a lock-out device which is inoper-~~
22 ~~able in the continuous standby mode and which requires manual activa-~~
23 ~~tion by the person supervising the operation of the machine each time~~
24 ~~cigarettes or tobacco products are purchased from the machine.~~

25 (u) To sell or distribute in this state; to acquire, hold, own, possess
26 or transport for sale or distribution in this state; or to import or cause to
27 be imported, into this state for sale or distribution in this state:

28 (1) Any cigarettes the package of which (A) bears any statement, la-
29 bel, stamp, sticker or notice indicating that the manufacturer did not
30 intend the cigarettes to be sold, distributed or used in the United States,
31 including but not limited to, labels stating "For Export Only", "U.S. Tax-
32 Exempt", "For Use Outside U.S." or similar wording; or (B) does not
33 comply with (i) all requirements imposed by or pursuant to federal law
34 regarding warnings and other information on packages of cigarettes man-
35 ufactured, packaged or imported for sale, distribution or use in the United
36 States, including but not limited to the precise warning labels specified
37 in the federal cigarette labeling and advertising act, 15 U.S.C. 1333; and
38 (ii) all federal trademark and copyright laws;

39 (2) any cigarettes imported into the United States in violation of 26
40 U.S.C. 5754 or any other federal law, or federal regulations implementing
41 such laws;

42 (3) any cigarettes that such person otherwise knows or has reason to
43 know the manufacturer did not intend to be sold, distributed or used in

1 the United States; or

2 (4) any cigarettes for which there has not been submitted to the sec-
3 retary of the U.S. department of health and human services the list or
4 lists of the ingredients added to tobacco in the manufacture of such cig-
5 arettes required by the federal cigarette labeling and advertising act, 15
6 U.S.C. 1335a.

7 (v) To alter the package of any cigarettes, prior to sale or distribution
8 to the ultimate consumer, so as to remove, conceal or obscure:

9 (1) Any statement, label, stamp, sticker or notice described in sub-
10 section (u) of K.S.A. 79-3321, and amendments thereto; or

11 (2) any health warning that is not specified in, or does not conform
12 with, the requirements of, the federal cigarette labeling and advertising
13 act, 15 U.S.C. 1333.

14 (w) To affix any stamp required pursuant to K.S.A. 79-3311, and
15 amendments thereto, to the package of any cigarettes described in sub-
16 section (u) or altered in violation of subsection (v).

17 (x) *To sell or transfer any tax indicia to any person or entity other*
18 *than the director.*

19 (y) *To buy any cigarettes or tobacco products for any person under*
20 *18 years of age.*

21 Sec. ~~12~~ **[13.]** K.S.A. 2009 Supp. 79-3333 is hereby amended to read
22 as follows: 79-3333. (a) Each person engaged in the business of selling
23 cigarettes to persons who reside in Kansas shall obtain a license as pro-
24 vided by the Kansas cigarette and tobacco products act.

25 (b) All cigarettes sold to persons who reside in Kansas shall have a
26 valid Kansas cigarette tax stamp affixed to each package.

27 (c) All retail cigarette dealers, whether located in or outside the state
28 of Kansas, shall have a registration certificate as provided in K.S.A. 79-
29 3608, and amendments thereto, and be subject to the provisions of the
30 Kansas retailers' sales tax act. Each licensed retail cigarette dealer selling
31 cigarettes over the internet, telephone or other mail order transaction
32 shall file all sales tax returns and remit taxes owed pursuant to K.S.A. 79-
33 3607, and amendments thereto.

34 (d) All sales transactions over the internet, telephone or other mail
35 order transaction shall not be completed, unless, before each delivery of
36 cigarettes is made, whether through the mail, through a transportation
37 company or any other delivery system, the seller has obtained from the
38 purchaser a certification that includes a reliable confirmation that the
39 purchaser is at least the legal minimum age to purchase cigarettes; that
40 the cigarettes purchased are not intended for consumption by an individ-
41 ual who is younger than the legal minimum age to purchase cigarettes;
42 and a written statement signed by the purchaser that certifies the pur-
43 chaser's address and that the purchaser is at least the minimum legal age

1 to purchase cigarettes. Such statement shall also confirm: (1) That the
 2 purchaser understands that signing another person's name to such cer-
 3 tification is illegal; (2) that the sale of cigarettes to individuals under the
 4 legal minimum purchase age is illegal; and (3) that the purchase of cig-
 5 arettes by individuals under the legal minimum purchase age is illegal
 6 under the laws of Kansas.

7 (e) The retail cigarette dealer shall verify the information contained
 8 in the certification provided by the purchaser against a commercially
 9 available database of governmental records, or obtain a photocopy or
 10 other image of the valid, government-issued identification stating the date
 11 of birth or age of the purchaser.

12 (f) All invoices, bills of lading, sales receipts and any other document
 13 related to the sale of cigarettes through the internet or other mail order
 14 transaction shall contain the current, valid retailer Kansas cigarette dealer
 15 license number, Kansas sales tax registration number, business name and
 16 address of the seller.

17 (g) All packages of cigarettes shipped from a cigarette dealer to pur-
 18 chasers who reside in Kansas shall clearly print the package with the word
 19 "CIGARETTES" on all sides of the package. In addition, such package
 20 shall contain an externally visible and easily legible notice located on the
 21 same side of the package as the address to which the package is delivered
 22 as follows:

23 "IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU
 24 FROM A SELLER LOCATED OUTSIDE OF THE STATE IN
 25 WHICH YOU RESIDE, THE SELLER HAS REPORTED PURSU-
 26 ANT TO FEDERAL LAW THE SALE OF THESE CIGARETTES TO
 27 YOUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR
 28 NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR
 29 ALL APPLICABLE UNPAID STATE TAXES ON THESE
 30 CIGARETTES."

31 ~~(h) The provisions of this section shall not apply to tobacco products,
 32 as defined in K.S.A. 79-3301, and amendments thereto.~~

33 ~~(i)~~ (h) Violation of the provisions of subsection (a), (d) or (e) is a
 34 severity level 8, nonperson felony. Violation of any provision of this sec-
 35 tion other than the provisions of subsection (a), (d) or (e) is a misde-
 36 meanor and upon conviction shall be punishable by a fine of not more
 37 than \$1,000 or imprisonment for not more than one year, or both.

38 ~~(j)~~ (i) The provisions of this section shall be part of and supplemental
 39 to the Kansas cigarette and tobacco products act.

40 Sec. ~~13~~ [14.] K.S.A. 79-3371 is hereby amended to read as follows:
 41 79-3371. A tax is hereby imposed upon the privilege of selling or dealing
 42 in tobacco products in this state by any person engaged in business as a
 43 distributor thereof, at the rate of ~~ten percent (10%)~~ 10% of the wholesale

1 sales price of such tobacco products. Such tax shall be imposed at the
2 time the distributor: (a) Brings or causes to be brought into this state
3 from without the state tobacco products for sale; (b) makes, manufac-
4 tures, or fabricates tobacco products in this state for sale in this state; or
5 (c) ships or transports tobacco products to retailers in this state to be sold
6 by those retailers. *For any purchaser of tobacco products on which such*
7 *tax has not been paid by the distributor, the director of taxation may*
8 *proceed directly against such purchaser to collect the full amount of tax*
9 *due. A purchaser of tobacco products includes a consumer as defined in*
10 *K.S.A. 79-3301, and amendments thereto.*

11 Sec. ~~14~~ **[15.]** K.S.A. 79-3373 is hereby amended to read as follows:
12 79-3373. (a) No person shall engage in the business of selling or dealing
13 in tobacco products as a distributor *or as a retail dealer* in this state
14 without first having received a license from the director. *A separate ap-*
15 *plication, license and fee is required for each retail dealer establishment*
16 *owned or operated by a retail dealer.* Every application for ~~such~~ a license
17 shall be made on a form prescribed by the director and shall state the
18 name and address of the applicant; if the applicant is a firm, partnership
19 or association, the name and address of each of its members; if the ap-
20 plicant is a corporation, the name and address of each of its officers; the
21 address of its principal place of business; the place where the business to
22 be licensed is to be conducted; and such other information as the director
23 may require for the purpose of the administration of this act.

24 (b) A person outside this state who ships or transports tobacco prod-
25 ucts to ~~retailers~~ *a retail dealer* in this state, to be sold by ~~those retailers,~~
26 ~~may such retail dealer,~~ shall make application for license as a distributor;
27 ~~be granted such a license by the director and thereafter.~~ *Prior to approval*
28 *by the director, the applicant shall submit with the application proof that*
29 *the person has appointed the secretary of state as the applicant's agent*
30 *for service of process relating to any matter or issue arising under this*
31 *act. Upon approval, the director shall issue a license and the distributor*
32 *shall be subject to all the provisions of this act and entitled to act as a*
33 *licensed distributor if the person files with the application proof that the*
34 *person has appointed the secretary of state as the person's agent for serv-*
35 *ice of process relating to any matter or issue arising under this act.*

36 (c) *A retail dealer selling tobacco products shall be registered and*
37 *licensed in the same manner as a retail dealer selling cigarettes. A retail*
38 *dealer selling tobacco products shall be licensed as provided in subsection*
39 *(a)(1) of K.S.A. 79-3304, and amendments thereto, and shall be subject to*
40 *the same requirements as a licensed retail dealer selling cigarettes. A retail*
41 *dealer who has satisfied the requirements for and has been issued a license*
42 *by the director for selling cigarettes shall be considered registered for the*
43 *purpose of selling tobacco products.*

1 (d) *A retail dealer selling tobacco products shall only purchase to-*
2 *bacco products from a Kansas licensed distributor.*

3 Sec. ~~15.~~ **[16.]** K.S.A. 79-3374 is hereby amended to read as follows:
4 79-3374. Each application for a distributor's license shall be accompanied
5 by a fee of ~~twenty-five dollars (\$25)~~ \$25. The application shall also be
6 accompanied by a corporate surety bond issued by a surety company
7 authorized to do business in this state, conditioned for the payment when
8 due of all taxes, penalties and accrued interest which may be due the
9 state. The bond shall be in an amount to be determined by the director
10 and in a form prescribed by the director. Whenever it is the opinion of
11 the director that the bond given by a licensee is inadequate in amount to
12 fully protect the state, ~~he or she~~ *the director* shall require an additional
13 bond in such amount as ~~he or she~~ *the director* deems sufficient. A separate
14 application for a license shall be made for each place of business at which
15 a distributor proposes to engage in business as such under this act, but
16 an applicant may provide one bond in an amount determined by the
17 director for all applications made by ~~him or her~~ *such applicant*. A dis-
18 tributor applying for a license between June ~~thirtieth~~ 30 and December
19 ~~thirty-first~~ 31 of any year shall be required to pay only one-half of the
20 license fee provided for herein.

21 Sec. ~~16.~~ **[17.]** K.S.A. 79-3375 is hereby amended to read as follows:
22 79-3375. Upon receipt of an application in proper form and payment of
23 the license fee required hereunder, the director shall, unless otherwise
24 provided by this act, issue to applicant a license hereunder, which license
25 shall permit the applicant to whom it is issued to engage in business as a
26 distributor at the place of business shown on the license. Each license
27 shall expire on December ~~thirty-first~~ 31 following its date of issue unless
28 sooner revoked by the director, or unless the business for which the li-
29 cense was issued is transferred. In either case the holder of the license
30 shall immediately surrender it to the director. Each license shall be prom-
31 inently displayed on the premises covered by the license. No license shall
32 be transferable to any other person.

33 Sec. ~~17.~~ **[18.]** K.S.A. 79-3377 is hereby amended to read as follows:
34 79-3377. (a) Each distributor shall keep in each licensed place of business
35 complete and accurate records for that place of business, including item-
36 ized invoices of: (1) Tobacco products held, purchased, manufactured,
37 brought in or caused to be brought in from outside the state or shipped
38 or transported to ~~retailers~~ *a retail dealer* in this state; and (2) all sales of
39 tobacco products made, ~~except sales to an ultimate consumer~~. Such re-
40 cords shall show the names and addresses of purchasers and other per-
41 tinent papers and documents relating to the purchase, sale or disposition
42 of tobacco products. When a licensed distributor sells tobacco products
43 ~~exclusively to ultimate consumers at the addresses given in the license,~~

1 ~~no invoice of those sales shall be required, but~~ *to a retail dealer* itemized
2 invoices shall be made of all tobacco products ~~transferred~~ *sold* to other
3 retail outlets *even if* owned or controlled by that licensed distributor. All
4 books, records and other papers and documents required by this subsection
5 to be kept shall be preserved for a period of at least three years after
6 the date of the documents or the date of the entries thereof appearing in
7 the records, unless the director, in writing, authorizes their destruction
8 or disposal at an earlier date.

9 (b) At any time during usual business hours duly authorized agents
10 or employees of the director may enter any place of business of a distributor
11 and inspect the premises, the records required to be kept under this
12 act and the tobacco products contained therein, to determine whether or
13 not all the provisions of this act are being fully complied with. Refusal to
14 permit such inspection by a duly authorized agent or employee of the
15 director shall be grounds for revocation of the license.

16 (c) Each person who sells tobacco products to persons other than an
17 ultimate consumer shall render with each sale itemized invoices showing
18 the seller's name and address, the purchaser's name and address, the date
19 of sale and all prices and discounts. Such person shall preserve legible
20 copies of all such invoices for three years after the date of sale.

21 (d) Each distributor shall procure itemized invoices of all tobacco
22 products purchased. The invoices shall show the name and address of the
23 seller and the date of purchase. The distributor shall preserve a legible
24 copy of each such invoice for three years after the date of purchase.
25 Invoices shall be available for inspection by authorized agents or employees
26 of the director at the distributor's place of business.

27 ~~Sec. 18. [19.]~~ K.S.A. 79-3378 is hereby amended to read as follows:
28 79-3378. On or before the ~~twentieth~~ *20th* day of each calendar month
29 every distributor with a place of business in this state shall file a return
30 with the director showing the quantity and wholesale sales price of each
31 tobacco product: (1) Brought, or caused to be brought, into this state for
32 sale; and (2) made, manufactured, or fabricated in this state for sale in
33 this state during the preceding calendar month. Every licensed distributor
34 outside this state shall in like manner file a return showing the quantity
35 and wholesale sales price of each tobacco product shipped or transported
36 to retailers in this state to be sold by those retailers, during the preceding
37 calendar month. Returns shall be made upon forms furnished and prescribed
38 by the director. Each return shall be accompanied by a remittance
39 for the full tax liability shown therein, less ~~four percent (4%)~~ *4%* of such
40 liability as compensation to reimburse the distributor for ~~his or her~~ *such*
41 *distributor's* expenses incurred in the administration of this act. As soon
42 as practicable after any return is filed, the director shall examine the
43 return. If the director finds that, in ~~his or her~~ *the director's* judgment,

1 the return is incorrect and any amount of tax is due from the distributor
2 and unpaid, ~~he or she~~ *the director* shall notify the distributor of the de-
3 ficiency. If a deficiency disclosed by the director's examination cannot be
4 allocated by ~~him~~ *the director* to a particular month or months, ~~he or she~~
5 *the director* may nevertheless notify the distributor that a deficiency exists
6 and state the amount of tax due. Such notice shall be given to the dis-
7 tributor by registered or certified mail. *The director may require such*
8 *reports to be filed electronically.*

9 Sec. ~~19.~~ **[20.]** K.S.A. 79-3379 is hereby amended to read as follows:
10 79-3379. Where tobacco products, on which the tax imposed by this act
11 has been reported and paid, or which have been reported for the purpose
12 of determining and imposing the tax for the privilege of doing business
13 under the provisions of this act and on which the tax has been paid, are
14 sold, shipped or transported by the distributor to retailers, distributors or
15 ultimate consumers ~~without~~ *outside* the state, *retail dealers* or are re-
16 turned to the manufacturer by the distributor, or destroyed by the dis-
17 tributor, a refund or credit of such tax shall be made to the distributor.
18 For the purpose of making such credit or refund, or any combination
19 thereof, the director may issue a tax credit memoranda or may prepare a
20 voucher showing the net amount of such refund due and the director of
21 accounts and reports shall draw a warrant upon the state treasurer for
22 the amount of any such refund certified by the director.

23 Sec. ~~20.~~ **[21.]** K.S.A. 79-3304, 79-3309, 79-3371, 79-3373, 79-3374,
24 79-3375, 79-3377, 79-3378 and 79-3379 and K.S.A. 2009 Supp. 50-6a07,
25 79-3301, 79-3302, 79-3303, 79-3310, 79-3310c, 79-3311, 79-3312, 79-
26 3316, 79-3321 and 79-3333 are hereby repealed.

27 Sec. ~~21.~~ **[22.]** This act shall take effect and be in force from and
28 after its publication in the statute book.