

NOTICE 17-12

2017 LEGISLATIVE AMENDMENTS REGARDING CIGARETTES, ELECTRONIC CIGARETTES, CONSUMABLE MATERIAL AND OTHER TOBACCO PRODUCTS

The 2017 Legislature passed House Bill 2230 and Senate Bill 13, which make a number of amendments to the Cigarette and Tobacco Products Act. Below is a summary of those changes.

HOUSE BILL 2230

The bill added definitions for “Conspicuous location or place” and “Electronic Cigarette”. It also amended the definition of “Self-service display”. K.S.A. 79-3301.

The percentage of revenue from cigarettes and tobacco to be considered a “Tobacco specialty store” was amended from 75% to 65%. K.S.A. 79-3301.

KDOR may refuse to issue or renew a license or may suspend or revoke a license for specified reasons listed in the bill. K.S.A. 79-3303 and K.S.A. 79-3304.

Should your business receive a citation, the number of days you will have to request a hearing in writing, before the director, changed from 10 days to 30 days. K.S.A. 79-3309.

A Cigarette Wholesaler must be in good standing with the director at the time of purchasing tax stamps in order to receive a discount of stamps purchased. Additionally, any tax stamps returned for refund must be whole and complete stamps. K.S.A. 79-3311.

Cigarette Wholesalers and Tobacco Distributors are required to file electronically in the manner prescribed by the director. If you are not currently electronically filing, please contact our office for further instructions. K.S.A. 79-3316 and K.S.A. 79-3378.

An outlet, fuel outlet or fuel center owned by the same (licensed) entity are no longer required to have separate invoices if cigarettes are sold from the fuel outlet. However, the fuel center is still required to have a separate license if it has a different address than the store. For example, if a company owns a store that has a fuel center, you are no longer required to have separate invoices for cigarettes for the fuel center. K.S.A. 79-3316.

The number of cigarettes allowed without the required tax indicia was amended from 200 cigarettes to 1,000 cigarettes (5 cartons). Cigarettes in quantities of 1,000 or less in the possession of a licensee are not declared a common nuisance and contraband if the licensee has: (1) segregated the cigarettes from public view; (2) marked the cigarettes as not for retail sale to consumers; and (3) within 72 hours of receipt, notified the wholesale dealer in writing that the cigarettes do not bear indicia of Kansas tax and that the wholesale dealer shall remove the cigarettes from the licensee’s premise. K.S.A. 79-3323.

Certain violations of K.S.A. 79-3321 are misdemeanors for the first violation. For a second and subsequent violation, they are a severity level 6, nonperson felony. K.S.A. 79-3322.

CONSUMABLE MATERIAL

The effective date of the consumable material tax was amended to July 1, 2017. The tax rate was reduced from \$.20 per milliliter to \$.05 per milliliter. The definition of consumable material was changed to “any liquid solution or other material that is depleted as an electronic cigarette is used.” If you have previously remitted tax on consumable material, this tax will be considered a credit that can be applied to future tax reports, filed after July 1, 2017, until the credit is fully used. If you prefer to receive a refund, please contact our office. K.S.A. 79-3399.

SENATE BILL 13

Liquor stores will be allowed to sell cigarettes and other tobacco products, effective April 1, 2019. Those liquor stores that are wanting to sell cigarettes must apply for a license. However, applications will not be accepted until 2019.

For a full text copy of these bills, please visit www.kslegislature.org.

If you have questions or need additional information, you may call 785-368-8222, choose option 5, then option 4, from 8 a.m. to 4:45 p.m., Central time, Monday through Friday; or you may email us at: kdor_cigtob@ks.gov.