

CHAPTER 140
HOUSE BILL No. 2682*

AN ACT concerning cigarettes; relating to sales by licensed dealers; sales tax requirements; shipment; providing penalties for certain unlawful acts; counterfeit cigarettes.

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

Section 1. (a) Each person engaged in the business of selling cigarettes to persons who reside in Kansas shall obtain a license as provided by the Kansas cigarette and tobacco products act.

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

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

(d) All sales transactions over the internet, telephone or other mail order transaction shall not be completed, unless, before each delivery of cigarettes is made, whether through the mail, through a transportation company or any other delivery system, the seller has obtained from the purchaser a certification that includes a reliable confirmation that the purchaser is at least the legal minimum age to purchase cigarettes; that the cigarettes purchased are not intended for consumption by an individual who is younger than the legal minimum age to purchase cigarettes; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least the minimum legal age to purchase cigarettes. Such statement shall also confirm: (1) That the purchaser understands that signing another person's name to such certification is illegal; (2) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal; and (3) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of Kansas.

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

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

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

"IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

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

(i) Violation of the provisions of subsection (a), (d) or (e) is a severity level 8, nonperson felony. Violation of any provision of this section other than the provisions of subsection (a), (d) or (e) is a misdemeanor and upon conviction shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

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

Sec. 2. (a) The Kansas department of revenue shall publish a list of active cigarette and tobacco licensees and shall update such list monthly.

(b) The list of active cigarette and tobacco licensees published as provided in subsection (a) shall contain the following information: County name, owner, business name, address, license type and license number.

(c) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 3. (a) Counterfeit cigarettes shall be seized by the director. For purposes of this section, counterfeit cigarettes includes cigarettes that have false manufacturing labels or packages of cigarettes bearing counterfeit tax stamps.

(b) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

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

Approved May 13, 2004.
