

1 restricted fund shall consist of funds deposited pursuant to Sections 36 and 37 of
 2 this Act. The Transportation Cabinet shall administer the fund.

3 (2) The funds deposited pursuant to:

4 (a) Section 36 of this Act shall be appropriated to the Department of Vehicle
 5 Regulation; and

6 (b) Section 37 of this Act shall be appropriated to the Office of Highway Safety;
 7 for administrative costs associated with ignition interlock pursuant to this
 8 chapter.

9 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of
 10 the fiscal year shall not lapse but shall be carried forward into the succeeding
 11 fiscal year to be used for the purposes set forth in subsection (2) of this section.

12 (4) Any interest earned on moneys in the fund shall become a part of the fund and
 13 shall not lapse.

14 → Section 39. KRS 138.146 is amended to read as follows:

Effective
August 1, 2020

15 (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer
 16 takes possession within this state of untax-paid cigarettes.

17 (2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident
 18 wholesaler within forty-eight (48) hours after the wholesaler receives the
 19 cigarettes.

20 (b) A stamp shall be affixed to each package of an aggregate denomination not
 21 less than the amount of the cigarette tax on the package.

22 (c) The affixed stamp shall be prima facie evidence of payment of the cigarette
 23 tax.

24 (d) Unless stamps have been previously affixed, they shall be affixed by each
 25 resident wholesaler prior to the delivery of any cigarettes to a retail location or
 26 any person in this state.

27 (e) The evidence of cigarette tax payment shall be affixed to each individual

- 1 package of cigarettes by a nonresident wholesaler prior to the introduction or
2 importation of the cigarettes into the territorial limits of this state.
- 3 (f) The evidence of cigarette tax payment shall be affixed by an unclassified
4 acquirer within twenty-four (24) hours after the cigarettes are received by the
5 unclassified acquirer.
- 6 (3) (a) The department shall by regulation prescribe the form of cigarette tax
7 evidence, the method and manner of the sale and distribution of cigarette tax
8 evidence, and the method and manner that tax evidence shall be affixed to the
9 cigarettes.
- 10 (b) All cigarette tax evidence prescribed by the department shall be designed and
11 furnished in a fashion to permit identification of the person that affixed the
12 cigarette tax evidence to the particular package of cigarettes, by means of
13 numerical rolls or other mark on the cigarette tax evidence.
- 14 (c) The department shall maintain for at least three (3) years information
15 identifying the person that affixed the cigarette tax evidence to each package
16 of cigarettes. This information shall not be kept confidential or exempt from
17 disclosure to the public through open records.
- 18 (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the
19 department shall allow as compensation to any licensed wholesaler an amount
20 of tax evidence equal to thirty cents (\$0.30) face value for each three dollars
21 (\$3) of tax evidence purchased at face value and attributable to the tax
22 assessed in KRS 138.140(1)(a). No compensation shall be allowed for tax
23 evidence purchased at face value attributable to the surtaxes imposed in KRS
24 138.140(1)(b) or (c).
- 25 (b) The department shall have the power to withhold compensation as provided in
26 paragraph (a) of this subsection from any licensed wholesaler for failure to
27 abide by any provisions of KRS 138.130 to 138.205 or any administrative

1 regulations promulgated thereunder. Any refund or credit for unused cigarette
2 tax evidence shall be reduced by the amount allowed as compensation at the
3 time of purchase.

4 (5) (a) Payment for units of cigarette tax evidence shall be made at the time the
5 units are sold, unless the licensed wholesaler:

6 1. Has filed with the department a bond, issued by a corporation
7 authorized to do surety business in Kentucky, in an amount equal to
8 or greater than the amount of payment for the units of cigarette tax
9 evidence purchased, plus all penalties, interest, and collection fees
10 applicable to that amount, should the taxpayer default on the
11 payment; and

12 2. Has registered and agrees to make the payment of tax to the
13 department electronically.

14 (b) Except as provided in paragraph (c) of this subsection, if the licensed
15 wholesaler qualifies under paragraph (a) of this subsection, the licensed
16 wholesaler shall have ten (10) days from the date of purchase to remit
17 payment of cigarette tax, without the assessment of civil penalties under
18 KRS 131.180 or interest under KRS 131.183 during the ten (10) day period.

19 (c) 1. The ten (10) day payment period under paragraph (b) of this
20 subsection shall not apply to the payment for units of cigarette tax
21 evidence during the last ten (10) days of the month of June during
22 each fiscal year.

23 2. All payments for units of cigarette tax evidence made under paragraph
24 (b) of this subsection during the month of June shall be made the
25 earlier of:

26 a. The ten (10) day period; or

27 b. June 25.

1 (d) If the licensed wholesaler does not make the payment of cigarette tax within
2 the ten (10) day period, or within the period of time under paragraph (c) of
3 this subsection, the department shall:

4 1. Revoke the license required under KRS 138.195;

5 2. Issue a demand for payment in an amount equal to the cigarette tax
6 evidence purchased, plus all penalties, interest, and collection fees
7 applicable to that amount; and

8 3. Require immediate payment of the bond.

9 (6) (a) The bond required under subsection (5) of this section shall be on a form
10 and with a surety approved by the department.

11 (b) The licensed wholesaler shall be named as the principal obligor and the
12 department shall be named as the obligee within the bond.

13 (c) The bond shall be conditioned upon the payment by the licensed wholesaler
14 of all cigarette tax imposed by the Commonwealth.

15 (d) The provisions of KRS 131.110 shall not apply to the demand for payment
16 required under paragraph (c)2. of subsection (5) of this section.

17 (7) (a) No tax evidence may be affixed, or used in any way, by any person other than
18 the person purchasing the evidence from the department.

19 (b) Tax evidence may not be transferred or negotiated, and may not, by any
20 scheme or device, be given, bartered, sold, traded, or loaned to any other
21 person.

22 (c) Unaffixed tax evidence may be returned to the department for credit or refund
23 for any reason satisfactory to the department.

24 ~~(8)~~(6) (a) In the event any retailer receives into his possession cigarettes to which
25 evidence of Kentucky tax payment is not properly affixed, the retailer shall,
26 within twenty-four (24) hours, notify the department of the receipt.

27 (b) The notification to the department shall be in writing, stating the name of the

1 person from whom the cigarettes were received and the quantity of those
2 cigarettes.

3 (c) The written notice may be:

- 4 1. Given to any field agent of the department; or
- 5 2. Directed to the commissioner of the Department of Revenue, Frankfort,
6 Kentucky.

7 (d) If the notice is given by means of the United States mail, it shall be sent by
8 certified mail.

9 (e) Any such cigarettes shall be retained by the retailer, and not sold, for a period
10 of fifteen (15) days after giving the notice provided in this subsection.

11 (f) The retailer may, at his option, pay the tax due on those cigarettes according to
12 administrative regulations prescribed by the department, and proceed to sell
13 those cigarettes after the payment.

14 ~~(g)~~ (a) Cigarettes stamped with the cigarette tax evidence of another state shall
15 at no time be commingled with cigarettes on which the Kentucky cigarette tax
16 evidence has been affixed.

17 (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine
18 operator may hold cigarettes stamped with the tax evidence of another state
19 for any period of time, subsection (2) of this section notwithstanding.

20 → Section 40. KRS 139.495 is amended to read as follows:

21 (1) The taxes imposed by this chapter shall apply to:

22 (a) Resident, nonprofit educational, charitable, or religious institutions which
23 have qualified for exemption from income taxation under Section 501(c)(3) of
24 the Internal Revenue Code; and

25 (b) Any resident, single member limited liability company that is:

- 26 1. Wholly owned and controlled by a resident or nonresident, nonprofit
27 educational, charitable, or religious institution which has qualified for