

FIRST EXTRAORDINARY SESSION OF THE
FIRST REGULAR SESSION

HOUSE BILL NO. 30

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

2571H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 144.070, RSMo, and to enact in lieu thereof one new section relating to tax payments on certain items.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 144.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.070, to read as follows:

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 2. As used in subsection 1 of this section, the term "purchase price" shall mean the total
17 amount of the contract price agreed upon between the seller and the applicant in the acquisition
18 of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment
19 therefor.

20 3. In the event that the purchase price is unknown or undisclosed, or that the evidence
21 thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by
22 the director.

23 4. The director of the department of revenue shall endorse upon the official certificate
24 of title issued by the director upon such application an entry showing that such sales tax has been
25 paid or that the motor vehicle, trailer, boat, or outboard motor represented by such certificate is
26 exempt from sales tax and state the ground for such exemption.

27 5. Any person, company, or corporation engaged in the business of renting or leasing
28 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental
29 or lease purposes, and not for resale, may apply to the director of revenue for authority to operate
30 as a leasing or rental company and pay an annual fee of two hundred fifty dollars for such
31 authority. Any company approved by the director of revenue ~~may~~ **shall** pay the tax due on any
32 motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of
33 registration thereof ~~[or in lieu thereof may pay a sales tax as provided in sections 144.010,~~
34 ~~144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company~~
35 ~~which does not exercise the option of paying in accordance with section 144.020, on the amount~~
36 ~~charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard~~
37 ~~motor is domiciled in this state]. Any motor vehicle, trailer, boat, or outboard motor which is~~
38 leased as the result of a contract executed in this state shall be presumed to be domiciled in this
39 state.

40 6. Every applicant to be a lease or rental company shall furnish with the application a
41 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued by
42 any state or federal financial institution in the penal sum of one hundred thousand dollars, on a
43 form approved by the department. The bond or irrevocable letter of credit shall be conditioned
44 upon the lease or rental company complying with the provisions of any statutes applicable to
45 lease or rental companies, and the bond shall be an indemnity for any loss sustained by reason
46 of the acts of the person bonded when such acts constitute grounds for the suspension or
47 revocation of the lease or rental license. The bond shall be executed in the name of the state of
48 Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the
49 state of Missouri as the beneficiary; except that, the aggregate liability of the surety or financial
50 institution to the aggrieved parties shall, in no event, exceed the amount of the bond or
51 irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid

52 upon receipt by the department of a final judgment from a Missouri court of competent
53 jurisdiction against the principal and in favor of an aggrieved party.

54 7. Any corporation may have one or more of its divisions separately apply to the director
55 of revenue for authorization to operate as a leasing company, provided that the corporation:

56 (1) Has filed a written consent with the director authorizing any of its divisions to apply
57 for such authority;

58 (2) Is authorized to do business in Missouri;

59 (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from
60 one of its divisions to another of its divisions as a sale at retail;

61 (4) Has registered under the fictitious name provisions of sections 417.200 to 417.230
62 each of its divisions doing business in Missouri as a leasing company; and

63 (5) Operates each of its divisions on a basis separate from each of its other divisions.

64 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a
65 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to
66 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not apply.

67 8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge
68 and collect sales tax as provided in this section, the owner shall make application to the director
69 of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing
70 company. The director of revenue shall promulgate rules and regulations determining the
71 qualifications of such a company, and the method of collection and reporting of sales tax charged
72 and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or
73 outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing
74 companies under the provisions of subsection 5 of this section, and no motor vehicle renting or
75 leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come
76 under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats,
77 and outboard motors held for renting and leasing are included.

78 9. Any person, company, or corporation engaged in the business of renting or leasing
79 three thousand five hundred or more motor vehicles which are to be used exclusively for rental
80 or leasing purposes and not for resale, and that has applied to the director of revenue for authority
81 to operate as a leasing company may also operate as a registered fleet owner as prescribed in
82 section 301.032.

83 10. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560
84 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue
85 for authority to collect and remit the sales tax required under this section on all motor vehicles
86 sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit
87 the tax is subject to all provisions under sections 144.010 to 144.525. Any motor vehicle dealer

88 authorized to collect and remit sales taxes on motor vehicles under this subsection shall be
89 entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax
90 pursuant to section 144.140. Any amount of the tax collected under this subsection that is
91 retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue.
92 In no event shall revenues from the general revenue fund or any other state fund be utilized to
93 compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor
94 vehicles. In the event this subsection or any portion thereof is held to violate Article IV, Section
95 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and
96 remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek
97 compensation from the state of Missouri or its agencies if a court of competent jurisdiction
98 declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and
99 orders the return of such revenues.

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