

FIRST REGULAR SESSION

HOUSE BILL NO. 809

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SMITH (67).

0843H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 144.020 and 144.070, RSMo, and to enact in lieu thereof two new sections relating to motor vehicle sales tax.

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

Section A. Sections 144.020 and 144.070, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 144.020 and 144.070, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be titled under the laws of the state of Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events, except amounts paid for any instructional class;

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.

17 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of
18 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or
19 industrial consumers;

20 (4) (a) A tax equivalent to four percent on the basic rate paid or charged on all sales of
21 local and long distance telecommunications service to telecommunications subscribers and to
22 others through equipment of telecommunications subscribers for the transmission of messages
23 and conversations and upon the sale, rental or leasing of all equipment or services pertaining or
24 incidental thereto; except that, the payment made by telecommunications subscribers or others,
25 pursuant to section 144.060, and any amounts paid for access to the internet or interactive
26 computer services shall not be considered as amounts paid for telecommunications services;

27 (b) If local and long distance telecommunications services subject to tax under this
28 subdivision are aggregated with and not separately stated from charges for telecommunications
29 service or other services not subject to tax under this subdivision, including, but not limited to,
30 interstate or international telecommunications services, then the charges for nontaxable services
31 may be subject to taxation unless the telecommunications provider can identify by reasonable
32 and verifiable standards such portion of the charges not subject to such tax from its books and
33 records that are kept in the regular course of business, including, but not limited to, financial
34 statement, general ledgers, invoice and billing systems and reports, and reports for regulatory
35 tariffs and other regulatory matters;

36 (c) A telecommunications provider shall notify the director of revenue of its intention
37 to utilize the standards described in paragraph (b) of this subdivision to determine the charges
38 that are subject to sales tax under this subdivision. Such notification shall be in writing and shall
39 meet standardized criteria established by the department regarding the form and format of such
40 notice;

41 (d) The director of revenue may promulgate and enforce reasonable rules and regulations
42 for the administration and enforcement of the provisions of this subdivision. Any rule or portion
43 of a rule, as that term is defined in section 536.010, that is created under the authority delegated
44 in this section shall become effective only if it complies with and is subject to all of the
45 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
46 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536
47 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held
48 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
49 August 28, 2019, shall be invalid and void;

50 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of
51 services for transmission of messages of telegraph companies;

52 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
53 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
54 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
55 regularly served to the public. The tax imposed under this subdivision shall not apply to any
56 automatic mandatory gratuity for a large group imposed by a restaurant when such gratuity is
57 reported as employee tip income and the restaurant withholds income tax under section 143.191
58 on such gratuity;

59 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets
60 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such
61 buses and trucks as are licensed by the division of motor carrier and railroad safety of the
62 department of economic development of Missouri, engaged in the transportation of persons for
63 hire;

64 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
65 tangible personal property, provided that if the lessor or renter of any tangible personal property
66 had previously purchased the property under the conditions of sale at retail or leased or rented
67 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
68 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
69 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
70 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
71 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
72 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
73 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,
74 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
75 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
76 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
77 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
78 upon the lease or rental thereof;

79 (9) A tax equivalent to four percent of the purchase price, as defined in section 144.070,
80 of new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for
81 use on the highways or waters of this state which are required to be registered under the laws of
82 the state of Missouri. This tax is imposed on the person titling such property, and shall be paid
83 according to the procedures in **section 144.070** or section 144.440.

84 2. All tickets sold which are sold under the provisions of sections 144.010 to ~~[144.525]~~
85 **144.527** which are subject to the sales tax shall have printed, stamped or otherwise endorsed
86 thereon, the words "This ticket is subject to a sales tax."

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.

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

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

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

5. Any person, company, or corporation engaged in the business of renting or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental or lease purposes, and not for resale, may apply to the director of revenue for authority to operate as a leasing or rental company and pay an annual fee of two hundred fifty dollars for such authority. Any company approved by the director of revenue may pay the tax due on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not exercise the option of paying in accordance with section 144.020, on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is

37 domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor which is leased as
38 the result of a contract executed in this state shall be presumed to be domiciled in this state.

39 6. Every applicant to be a registered fleet owner as described in subsections 6 to 10 of
40 section 301.032 shall furnish with the application to operate as a registered fleet owner 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 registered fleet owner complying with the provisions of any statutes applicable to
45 registered fleet owners, and the bond shall be an indemnity for any loss sustained by reason of
46 the acts of the person bonded when such acts constitute grounds for the suspension or revocation
47 of the registered fleet owner 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]~~ **shall** apply to the director of
85 revenue for authority to collect and remit the sales tax required under this section on all motor
86 vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect
87 and remit the tax is subject to all provisions under sections 144.010 to ~~[144.525]~~ **144.527**. Any
88 motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this
89 subsection shall be entitled to deduct and retain an amount equal to two percent of the motor
90 vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this
91 subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not
92 constitute state revenue. In no event shall revenues from the general revenue fund or any other
93 state fund be utilized to compensate motor vehicle dealers for their role in collecting and
94 remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is
95 held to violate Article IV, Section 30(b) of the Missouri Constitution, no motor vehicle dealer
96 shall be authorized to collect and remit sales taxes on motor vehicles under this section. No
97 motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a court
98 of competent jurisdiction declares that the retention of two percent of the motor vehicle sales tax
99 is unconstitutional and orders the return of such revenues.

100 **11. (1) Beginning January 1, 2022, notwithstanding any provision of this section,**
101 **section 144.440, or any other provision of law to the contrary, if the sales tax imposed on**
102 **the purchase of a motor vehicle under section 144.020 is not collected and remitted by a**
103 **motor vehicle dealer under subsection 10 of this section and the purchaser of the motor**
104 **vehicle utilizes any form of financing to purchase the motor vehicle, the full amount of the**
105 **sales tax due shall be explicitly included in the financing agreement between the purchaser**
106 **and the financing entity and the financing entity shall transfer such amount directly to the**
107 **motor vehicle dealer, who shall remit the sales tax due to the appropriate taxing authority**
108 **on behalf of the purchaser. Any amounts received by the taxing authority shall be credited**

109 towards any amounts of sales tax otherwise due to the taxing authority by the purchaser.
110 The failure of a motor vehicle dealer to properly remit moneys to an appropriate taxing
111 authority shall not be a defense to any claim owed by the purchaser, and both the motor
112 vehicle dealer and the purchaser shall be jointly liable to the taxing authority for any taxes
113 owed.

114 (2) The director of revenue may promulgate all necessary rules and regulations for
115 the administration of this subsection. Any rule or portion of a rule, as that term is defined
116 in section 536.010, that is created under the authority delegated in this subsection shall
117 become effective only if it complies with and is subject to all of the provisions of chapter
118 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable,
119 and if any of the powers vested with the general assembly pursuant to chapter 536 to
120 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
121 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
122 after August 28, 2021, shall be invalid and void.

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