

SECOND REGULAR SESSION

SENATE BILL NO. 529

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3761S.02I

AN ACT

To repeal sections 32.310, 144.605, and 144.757, RSMo, and to enact in lieu thereof five new sections relating to use taxes.

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

Section A. Sections 32.310, 144.605, and 144.757, RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 32.310, 144.605,
3 144.637, 144.752, and 144.757, to read as follows:

32.310. 1. The department of revenue shall create and maintain a
2 mapping feature on its official public website that displays sales **and use** tax
3 information of political subdivisions of this state that have taxing authority,
4 including the current tax rate for each sales **and use** tax imposed and
5 collected. Such display shall have the option to showcase the borders and
6 jurisdiction of the following political subdivisions on a map of the state to the
7 extent that such political subdivisions collect sales **and use** tax:

- 8 (1) Ambulance districts;
- 9 (2) Community improvement districts;
- 10 (3) Fire protection districts;
- 11 (4) Levee districts;
- 12 (5) Library districts;
- 13 (6) Neighborhood improvement districts;
- 14 (7) Port authority districts;
- 15 (8) Tax increment financing districts;
- 16 (9) Transportation development districts;
- 17 (10) School districts; or
- 18 (11) Any other political subdivision that imposes a sales **or use** tax

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 within its borders and jurisdiction.

20 2. The mapping feature shall also have the option to superimpose state
21 house of representative districts and state senate districts over the political
22 subdivisions.

23 3. A political subdivision collecting sales **or use** tax listed in subsection
24 1 of this section shall provide to the department of revenue mapping and
25 geographic data pertaining to the political subdivision's borders and
26 jurisdictions. The political subdivision shall certify the accuracy of the data by
27 affidavit and shall provide the data in a format specified by the department of
28 revenue. Such data shall be sent to the department of revenue by April 1, 2019,
29 and shall be updated and sent to the department if a change in the political
30 subdivision's borders or jurisdiction occurs thereafter.

31 4. The department of revenue may contract with another entity to build
32 and maintain the mapping feature.

33 5. By July 1, 2019, the department shall implement the mapping feature
34 using the data provided to it under subsection 3 of this section.

 144.605. The following words and phrases as used in sections 144.600 to
2 144.745 mean and include:

3 (1) "Calendar quarter", the period of three consecutive calendar months
4 ending on March thirty-first, June thirtieth, September thirtieth or December
5 thirty-first;

6 (2) "Engages in business activities within this state" includes:

7 (a) Maintaining or having a franchisee or licensee operating under the
8 seller's trade name in this state if the franchisee or licensee is required to collect
9 sales tax pursuant to sections 144.010 to 144.525;

10 (b) Soliciting sales or taking orders by sales agents or traveling
11 representatives;

12 (c) A vendor is presumed to engage in business activities within this state
13 if any person, other than a common carrier acting in its capacity as such, that has
14 substantial nexus with this state:

15 a. Sells a similar line of products as the vendor and does so under the
16 same or a similar business name;

17 b. Maintains an office, distribution facility, warehouse, or storage place,
18 or similar place of business in the state to facilitate the delivery of property or
19 services sold by the vendor to the vendor's customers;

20 c. Delivers, installs, assembles, or performs maintenance services for the

21 vendor's customers within the state;

22 d. Facilitates the vendor's delivery of property to customers in the state
23 by allowing the vendor's customers to pick up property sold by the vendor at an
24 office, distribution facility, warehouse, storage place, or similar place of business
25 maintained by the person in the state; or

26 e. Conducts any other activities in the state that are significantly
27 associated with the vendor's ability to establish and maintain a market in the
28 state for the sales;

29 (d) The presumption in paragraph (c) **of this subdivision** may be
30 rebutted by demonstrating that the person's activities in the state are not
31 significantly associated with the vendor's ability to establish or maintain a
32 market in this state for the vendor's sales;

33 (e) Notwithstanding paragraph (c) **of this subdivision**, a vendor shall
34 be presumed to engage in business activities within this state if the vendor enters
35 into an agreement with one or more residents of this state under which the
36 resident, for a commission or other consideration, directly or indirectly refers
37 potential customers, whether by a link on an internet website, an in-person oral
38 presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross
39 receipts from sales by the vendor to customers in the state who are referred to the
40 vendor by all residents with this type of an agreement with the vendor is in
41 excess of ten thousand dollars during the preceding twelve months;

42 (f) The presumption in paragraph (e) **of this subdivision** may be
43 rebutted by submitting proof that the residents with whom the vendor has an
44 agreement did not engage in any activity within the state that was significantly
45 associated with the vendor's ability to establish or maintain the vendor's market
46 in the state during the preceding twelve months. Such proof may consist of sworn
47 written statements from all of the residents with whom the vendor has an
48 agreement stating that they did not engage in any solicitation in the state on
49 behalf of the vendor during the preceding year provided that such statements
50 were provided and obtained in good faith;

51 (g) a. **Beginning October 1, 2020, a vendor engages in business**
52 **activities within this state if the cumulative gross receipts from the**
53 **vendor's sales of tangible personal property to purchasers for the**
54 **purpose of storage, use, or consumption in this state are one hundred**
55 **thousand dollars or more during any twelve-month period, as**
56 **determined under subparagraph b of this paragraph;**

57 **b. Following the close of each calendar quarter, a vendor shall**
58 **determine whether the vendor met the requirements provided under**
59 **subparagraph a of this paragraph during the twelve-month period**
60 **ending on the last day of the preceding calendar quarter. If the vendor**
61 **met such requirements for any such twelve-month period, such vendor**
62 **shall collect and remit the tax as provided under section 144.635 for a**
63 **period of not less than twelve months, beginning not more than three**
64 **months following the close of the preceding calendar quarter, and shall**
65 **continue to collect and remit the tax for as long as the vendor is**
66 **engaged in business activities in this state, as provided under this**
67 **paragraph, or otherwise maintains a substantial nexus with this state;**

68 **c. The use tax revenue collected from remittances made under**
69 **the provisions of this paragraph shall be deposited as follows:**

70 **(i) Eighty percent shall be deposited in the "School**
71 **Transportation Fund", which is hereby created in the state treasury, to**
72 **fund school district transportation costs pursuant to sections 163.031**
73 **and 163.161. The state treasurer shall be custodian of the fund. In**
74 **accordance with sections 30.170 and 30.180, the state treasurer may**
75 **approve disbursements. Notwithstanding the provisions of section**
76 **33.080 to the contrary, any moneys remaining in the fund at the end of**
77 **the biennium shall not revert to the credit of the general revenue**
78 **fund. The state treasurer shall invest moneys in the fund in the same**
79 **manner as other funds are invested. Any interest and moneys earned**
80 **on such investments shall be credited to the fund; and**

81 **(ii) Twenty percent shall be deposited in the "County Jail**
82 **Reimbursement Fund", which is hereby created in the state treasury,**
83 **to fund reimbursements made to counties pursuant to section**
84 **221.105. The state treasurer shall be custodian of the fund. In**
85 **accordance with sections 30.170 and 30.180, the state treasurer may**
86 **approve disbursements. Notwithstanding the provisions of section**
87 **33.080 to the contrary, any moneys remaining in the fund at the end of**
88 **the biennium shall not revert to the credit of the general revenue**
89 **fund. The state treasurer shall invest moneys in the fund in the same**
90 **manner as other funds are invested. Any interest and moneys earned**
91 **on such investments shall be credited to the fund;**

92 **(3) "Maintains a place of business in this state" includes maintaining,**
93 **occupying, or using, permanently or temporarily, directly or indirectly, by**

94 whatever name called, an office, place of distribution, sales or sample room or
95 place, warehouse or storage place, or other place of business in this state,
96 whether owned or operated by the vendor or by any other person other than a
97 common carrier acting in its capacity as such;

98 (4) "Person", any individual, firm, copartnership, joint venture,
99 association, corporation, municipal or private, and whether organized for profit
100 or not, state, county, political subdivision, state department, commission, board,
101 bureau or agency, except the state transportation department, estate, trust,
102 business trust, receiver or trustee appointed by the state or federal court,
103 syndicate, or any other group or combination acting as a unit, and the plural as
104 well as the singular number;

105 (5) "Purchase", the acquisition of the ownership of, or title to, tangible
106 personal property, through a sale, as defined herein, for the purpose of storage,
107 use or consumption in this state;

108 (6) "Purchaser", any person who is the recipient for a valuable
109 consideration of any sale of tangible personal property acquired for use, storage
110 or consumption in this state;

111 (7) "Sale", any transfer, barter or exchange of the title or ownership of
112 tangible personal property, or the right to use, store or consume the same, for a
113 consideration paid or to be paid, and any transaction whether called leases,
114 rentals, bailments, loans, conditional sales or otherwise, and notwithstanding
115 that the title or possession of the property or both is retained for security. For
116 the purpose of this law the place of delivery of the property to the purchaser,
117 user, storer or consumer is deemed to be the place of sale, whether the delivery
118 be by the vendor or by common carriers, private contractors, mails, express,
119 agents, salesmen, solicitors, hawkers, representatives, consignors, peddlers,
120 canvassers or otherwise;

121 (8) "Sales price", the consideration including the charges for services,
122 except charges incident to the extension of credit, paid or given, or contracted to
123 be paid or given, by the purchaser to the vendor for the tangible personal
124 property, including any services that are a part of the sale, valued in money,
125 whether paid in money or otherwise, and any amount for which credit is given to
126 the purchaser by the vendor, without any deduction therefrom on account of the
127 cost of the property sold, the cost of materials used, labor or service cost, losses
128 or any other expenses whatsoever, except that cash discounts allowed and taken
129 on sales shall not be included and "sales price" shall not include the amount

130 charged for property returned by customers upon rescission of the contract of
131 sales when the entire amount charged therefor is refunded either in cash or credit
132 or the amount charged for labor or services rendered in installing or applying the
133 property sold, the use, storage or consumption of which is taxable pursuant to
134 sections 144.600 to 144.745. The sales price shall not include usual and
135 customary delivery charges that are separately stated. In determining the
136 amount of tax due pursuant to sections 144.600 to 144.745, any charge incident
137 to the extension of credit shall be specifically exempted;

138 (9) "Selling agent", every person acting as a representative of a principal,
139 when such principal is not registered with the director of revenue of the state of
140 Missouri for the collection of the taxes imposed pursuant to sections 144.010 to
141 144.525 or sections 144.600 to 144.745 and who receives compensation by reason
142 of the sale of tangible personal property of the principal, if such property is to be
143 stored, used, or consumed in this state;

144 (10) "Storage", any keeping or retention in this state of tangible personal
145 property purchased from a vendor, except property for sale or property that is
146 temporarily kept or retained in this state for subsequent use outside the state;

147 (11) "Tangible personal property", all items subject to the Missouri sales
148 tax as provided in subdivisions (1) and (3) **of subsection 1** of section 144.020;

149 (12) "Taxpayer", any person remitting the tax or who should remit the tax
150 levied by sections 144.600 to 144.745;

151 (13) "Use", the exercise of any right or power over tangible personal
152 property incident to the ownership or control of that property, except that it does
153 not include the temporary storage of property in this state for subsequent use
154 outside the state, or the sale of the property in the regular course of business;

155 (14) "Vendor", every person engaged in making sales of tangible personal
156 property by mail order, by advertising, by agent or peddling tangible personal
157 property, soliciting or taking orders for sales of tangible personal property, for
158 storage, use or consumption in this state, all salesmen, solicitors, hawkers,
159 representatives, consignees, peddlers or canvassers, as agents of the dealers,
160 distributors, consignors, supervisors, principals or employers under whom they
161 operate or from whom they obtain the tangible personal property sold by them,
162 and every person who maintains a place of business in this state, maintains a
163 stock of goods in this state, or engages in business activities within this state and
164 every person who engages in this state in the business of acting as a selling agent
165 for persons not otherwise vendors as defined in this subdivision. Irrespective of

166 whether they are making sales on their own behalf or on behalf of the dealers,
167 distributors, consignors, supervisors, principals or employers, they must be
168 regarded as vendors and the dealers, distributors, consignors, supervisors,
169 principals or employers must be regarded as vendors for the purposes of sections
170 144.600 to 144.745.

**144.637. 1. The director of revenue shall provide and maintain
2 a database that describes boundary changes for all taxing jurisdictions
3 and the effective dates of such changes for the use of vendors collecting
4 the tax imposed under sections 144.600 to 144.745.**

**5 2. For the identification of counties and cities, codes
6 corresponding to the rates shall be provided according to Federal
7 Information Processing Standards (FIPS) as developed by the National
8 Institute of Standards and Technology. For the identification of all
9 other jurisdictions, codes corresponding to the rates shall be in a
10 format determined by the director.**

**11 3. The director shall provide and maintain a database that
12 assigns each five- and nine-digit zip code to the proper rates and taxing
13 jurisdictions. The lowest combined tax rate imposed in the zip code
14 area shall apply if the area includes more than one tax rate in any level
15 of taxing jurisdiction. If a nine-digit zip code designation is not
16 available for a street address, or if a vendor is unable to determine the
17 nine-digit zip code designation applicable to a purchase after
18 exercising due diligence to determine the designation, the vendor may
19 apply the rate for the five-digit zip code area. For purposes of this
20 section, there shall be a rebuttable presumption that a vendor has
21 exercised due diligence if the vendor has attempted to determine the
22 nine-digit zip code designation by utilizing software approved by the
23 director that makes this designation from the street address and the
24 five-digit zip code applicable to a purchase.**

**25 4. The director may provide address-based boundary database
26 records for assigning taxing jurisdictions and associated rates which
27 shall be in addition to the requirements of subsection 3 of this
28 section. The database records shall be in the same approved format as
29 the database records required under subsection 3 of this section and
30 shall meet the requirements developed pursuant to the federal Mobile
31 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the
32 director develops address-based assignment database records, vendors**

33 shall be required to use such database. A vendor shall use such
34 database records in place of the five- and nine-digit zip code database
35 records provided for in subsection 3 of this section. If a vendor is
36 unable to determine the applicable rate and jurisdiction using an
37 address-based database record after exercising due diligence, the
38 vendor may apply the nine-digit zip code designation applicable to a
39 purchase. If a nine-digit zip code designation is not available for a
40 street address or if a vendor is unable to determine the nine-digit zip
41 code designation applicable to a purchase after exercising due
42 diligence to determine the designation, the vendor may apply the rate
43 for the five-digit zip code area. For the purposes of this section, there
44 shall be a rebuttable presumption that a vendor has exercised due
45 diligence if the vendor has attempted to determine the tax rate and
46 jurisdiction by utilizing software approved by the director and makes
47 the assignment from the address and zip code information applicable
48 to the purchase. If the director has met the requirements of subsection
49 3 of this section, the director may also elect to certify address-based
50 databases provided by third parties for assigning tax rates and
51 jurisdictions. The databases shall be in the same approved format as
52 the database records under this section and meet the requirements
53 developed pursuant to the federal Mobile Telecommunications Sourcing
54 Act, 4 U.S.C. Section 119(a). If the director certifies an address-based
55 database provided by a third party, a vendor may use such database in
56 place of the database provided for in this subsection.

57 5. The electronic databases provided for in subsections 1, 2, 3,
58 and 4 of this section shall be in downloadable format as determined by
59 the director. The databases may be directly provided by the director
60 or provided by a third party as designated by the director. A database
61 provided by a third party shall be applicable and subject to the
62 provisions of this section. The databases shall be provided at no cost
63 to the user of the database. The provisions of subsections 3 and 4 of
64 this section shall not apply if the purchased product is received by the
65 purchaser at the business location of the vendor.

66 6. No vendor shall be liable for reliance upon erroneous data
67 provided or approved by the director on tax rates, boundaries, or
68 taxing jurisdiction assignments.

144.752. 1. For the purposes of this section, the following terms

2 shall mean:

3 (1) "Marketplace facilitator", a person that:

4 (a) Facilitates a retail sale by a marketplace seller by listing or
5 advertising for sale by the marketplace seller in any forum, tangible
6 personal property or services that are subject to tax under this chapter;
7 and

8 (b) Either directly or indirectly through agreements or
9 arrangements with third parties collecting payment from the purchaser
10 and transmitting such payment to the marketplace seller regardless of
11 whether the marketplace facilitator receives compensation or other
12 consideration in exchange for its services.

13 A marketplace facilitator is a seller and shall comply with the
14 provisions of this chapter. A marketplace facilitator does not include
15 a person who provides internet advertising services, or product listing,
16 and does not collect payment from the purchaser and transmit payment
17 to the marketplace seller, and does not include a person with respect
18 to the provision of travel agency services or the operation of a
19 marketplace or that portion of a marketplace that enables consumers
20 to receive travel agency services. For the purposes of this subdivision,
21 "travel agency services" means facilitating, for a commission, fee, or
22 other consideration, vacation or travel packages, rental car or other
23 travel reservations, tickets for domestic or foreign travel by air, rail,
24 ship, bus, or other medium of transportation, or hotel or other lodging
25 accommodations;

26 (2) "Marketplace seller", a seller that makes sales through any
27 electronic marketplace operated by a marketplace facilitator;

28 (3) "Person", any individual, firm, copartnership, joint venture,
29 association, corporation, municipal or private, whether organized for
30 profit or not, state, county, political subdivision, state department,
31 commission, board, bureau or agency, except the department of
32 transportation, estate, trust, business trust, receiver or trustee
33 appointed by the state or federal court, syndicate, or any other group
34 or combination acting as a unit;

35 (4) "Purchaser", any person who is the recipient for a valuable
36 consideration of any sale of tangible personal property acquired for
37 use, storage, or consumption in this state;

38 (5) "Retail sale", the same meaning as defined under sections

39 144.010 and 144.011, excluding motor vehicles, trailers, motorcycles,
40 mopeds, motortricycles, boats, and outboard motors required to be
41 titled under the laws of the state and subject to tax under subdivision
42 (9) of subsection 1 of section 144.020;

43 (6) "Seller", a person selling or furnishing tangible personal
44 property or rendering services on the receipts from which a tax is
45 imposed under section 144.020.

46 2. (1) By no later than January 1, 2022, marketplace facilitators
47 that reach the threshold provided in paragraph (g) of subdivision (2)
48 of section 144.605 shall register with the department to collect and
49 remit sales and use tax, as applicable, on sales made through the
50 marketplace facilitator's marketplace by or on behalf of a marketplace
51 seller that are purchased in or delivered into the state, whether by the
52 marketplace facilitator or another person, and regardless of whether
53 the marketplace seller for whom sales are facilitated possesses a retail
54 sales license or would have been required to collect sales or use tax had
55 the sale not been facilitated by the marketplace facilitator. Such retail
56 sales shall include those made directly by the marketplace facilitator
57 and shall also include those retail sales made by marketplace sellers
58 through the marketplace facilitator's marketplace. The collection and
59 reporting requirements of this subsection shall not apply to retail sales
60 other than those made through a marketplace facilitator's
61 marketplace. Nothing in this section shall be construed to limit or
62 prohibit the ability of a marketplace facilitator and a marketplace
63 seller to enter into agreements regarding the fulfillment of the
64 requirements of this chapter.

65 (2) All taxable sales made through a marketplace facilitator's
66 marketplace by or on behalf of a marketplace seller shall be deemed to
67 be consummated at the location in this state to which the item is
68 shipped or delivered, or at which possession is taken by the purchaser.

69 3. Marketplace facilitators that are required to collect sales and
70 use tax under this section shall report and remit the tax separately
71 from any sales and use tax collected by the marketplace facilitator, or
72 by affiliates of the marketplace facilitator, which the marketplace
73 facilitator would have been required to collect and remit under the
74 provisions of this chapter prior to January 1, 2022. Such tax shall be
75 reported and remitted on a marketplace facilitator return to be

76 developed and published by the department. Marketplace facilitators
77 shall maintain records of all sales delivered to a location in the state,
78 including copies of invoices showing the purchaser, address, purchase
79 amount, and sales and use tax collected. Such records shall be made
80 available for review and inspection upon request by the department.

81 4. Marketplace facilitators who properly collect and remit to the
82 department in a timely manner sales and use tax on sales in accordance
83 with the provisions of this section by or on behalf of marketplace
84 sellers shall be eligible for any discount provided under this chapter.

85 5. A marketplace facilitator shall provide the purchaser with a
86 statement or invoice showing that the sales or use tax was collected
87 and shall be remitted on the purchaser's behalf.

88 6. Any taxpayer who remits sales or use tax under this section
89 shall be entitled to refunds or credits to the same extent and in the
90 same manner provided for in section 144.190 for taxes collected and
91 remitted under this section. Nothing in this section shall relieve a
92 purchaser of the obligation to remit sales or use tax for any retail sale
93 taxable under this chapter for which a marketplace facilitator or
94 marketplace seller does not collect and remit the sales or use tax.

95 7. Except as provided under subsections 8 to 10 of this section,
96 marketplace facilitators shall be subject to the penalty provisions,
97 procedures, and reporting requirements provided under the provisions
98 of this chapter.

99 8. No class action shall be brought against a marketplace
100 facilitator in any court in this state on behalf of purchasers arising
101 from or in any way related to an overpayment of sales or use tax
102 collected on retail sales facilitated by a marketplace facilitator,
103 regardless of whether that claim is characterized as a tax refund
104 claim. Nothing in this subsection shall affect a purchaser's right to
105 seek a refund as provided under section 144.190.

106 9. An audit performed by the department under this chapter
107 shall only be performed on a marketplace facilitator for sales made by
108 marketplace sellers but facilitated by the marketplace facilitator. The
109 department shall not audit a marketplace seller for sales facilitated by
110 a marketplace facilitator except to the extent a marketplace facilitator
111 seeks relief from liability under the provisions of paragraph (a) of
112 subdivision (1) of subsection 10 of this section.

113 **10. (1) A marketplace facilitator shall be relieved from liability**
114 **under this section for the failure to collect and remit the correct**
115 **amount of sales or use tax on retail sales facilitated for marketplace**
116 **sellers under the following circumstances:**

117 **(a) To the extent that the marketplace facilitator demonstrates**
118 **to the satisfaction of the department that the error was due to**
119 **insufficient or incorrect information given to the marketplace**
120 **facilitator by the marketplace seller; provided, however, that a**
121 **marketplace facilitator shall not be relieved of liability under this**
122 **paragraph if the marketplace facilitator and the marketplace seller are**
123 **affiliated;**

124 **(b) To the extent that the marketplace facilitator demonstrates**
125 **to the satisfaction of the department that:**

126 **a. The marketplace facilitator is not the seller and that the**
127 **marketplace facilitator and marketplace seller are not affiliated;**

128 **b. The retail sale was facilitated for a marketplace seller through**
129 **a marketplace operated by the marketplace facilitator; and**

130 **c. The failure to collect and remit the correct amount of sales or**
131 **use tax was due to an error other than an error in sourcing the sale**
132 **under the provisions of this chapter.**

133 **(2) The relief from liability provided under subdivision (1) of this**
134 **subsection shall not exceed the following percentage of the total sales**
135 **and use tax due on retail sales facilitated by a marketplace facilitator**
136 **for marketplace sellers and sourced to this state during a calendar**
137 **year, which such retail sales shall not include retail sales made directly**
138 **by the marketplace facilitator or affiliates of the marketplace**
139 **facilitator:**

140 **(a) For retail sales made or facilitated during the 2022 calendar**
141 **year, four percent;**

142 **(b) For retail sales made or facilitated during the 2023 calendar**
143 **year, two percent;**

144 **(c) For retail sales made or facilitated during the 2024 calendar**
145 **year, one percent; and**

146 **(d) For retail sales made or facilitated for all years beginning**
147 **January 1, 2025, zero percent.**

148 **(3) To the extent that a marketplace facilitator is relieved of**
149 **liability for the collection of sales and use tax under this subsection,**

150 the marketplace seller for whom the marketplace facilitator has made
151 or facilitated the sale shall also be relieved of liability under this
152 subsection.

153 (4) The department shall determine the manner in which a
154 marketplace facilitator or marketplace seller shall apply for and claim
155 the relief from liability provided for under this subsection.

156 11. The department may grant a waiver from the requirements
157 of this section if a marketplace facilitator demonstrates to the
158 satisfaction of the department that all of its marketplace sellers are
159 already registered under the provisions of this chapter to collect and
160 remit sales and use tax. If such waiver is granted, the sales or use tax
161 due shall be collected and remitted by the marketplace seller. The
162 department shall develop guidelines by rule that establish the criteria
163 for obtaining a waiver, the process and procedure for a marketplace
164 facilitator or marketplace seller to apply for a waiver, and the process
165 for providing notice to an affected marketplace facilitator and
166 marketplace seller of a waiver obtained under the provisions of this
167 subsection. Any rule or portion of a rule, as that term is defined in
168 section 536.010 that is created under the authority delegated in this
169 section shall become effective only if it complies with and is subject to
170 all of the provisions of chapter 536 and, if applicable, section
171 536.028. This section and chapter 536 are nonseverable and if any of
172 the powers vested with the general assembly pursuant to chapter 536
173 to review, to delay the effective date, or to disapprove and annul a rule
174 are subsequently held unconstitutional, then the grant of rulemaking
175 authority and any rule proposed or adopted after August 28, 2020, shall
176 be invalid and void.

177 12. For the purposes of this section, a marketplace facilitator
178 shall not include a third party financial institution appointed by a
179 merchant or a marketplace facilitator to handle various forms of
180 payment transactions, such as processing credit cards and debit cards,
181 and whose sole activity with respect to marketplace sales is to facilitate
182 the payment transactions between two parties.

144.757. 1. Any county or municipality, except municipalities within a
2 county having a charter form of government with a population in excess of nine
3 hundred thousand, may, by a majority vote of its governing body, impose a local
4 use tax if a local sales tax is imposed as defined in section 32.085 at a rate equal

5 to the rate of the local sales tax in effect in such county or municipality; provided,
 6 however, that no ordinance or order enacted pursuant to sections 144.757 to
 7 144.761 shall be effective unless the governing body of the county or municipality
 8 submits to the voters thereof at a municipal, county or state general, primary or
 9 special election a proposal to authorize the governing body of the county or
 10 municipality to impose a local use tax pursuant to sections 144.757 to
 11 144.761. Municipalities within a county having a charter form of government
 12 with a population in excess of nine hundred thousand may, upon voter approval
 13 received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this
 14 section, impose a local use tax at the same rate as the local municipal sales tax
 15 with the revenues from all such municipal use taxes to be distributed pursuant
 16 to subsection 4 of section 94.890. The municipality shall within thirty days of the
 17 approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of
 18 subsection 2 of this section select one of the distribution options permitted in
 19 subsection 4 of section 94.890 for distribution of all municipal use taxes.

20 2. (1) The ballot of submission, except for counties and municipalities
 21 described in subdivisions (2) and (3) of this subsection, shall contain substantially
 22 the following language:

23 Shall the _____ (county or municipality's name) impose a local use
 24 tax at the same rate as the total local sales tax rate, [currently
 25 _____ (insert percent),] provided that if the local sales tax rate is
 26 reduced or raised by voter approval, the local use tax rate shall
 27 also be reduced or raised by the same action? [A use tax return
 28 shall not be required to be filed by persons whose purchases from
 29 out-of-state vendors do not in total exceed two thousand dollars in
 30 any calendar year] **Approval of this question will eliminate
 31 the disparity in tax rates collected by local and out-of-state
 32 sellers by imposing the same rate on all sellers.**

33 YES NO

34 If you are in favor of the question, place an "X" in the box opposite
 35 "YES". If you are opposed to the question, place an "X" in the box
 36 opposite "NO".

37 (2) (a) The ballot of submission in a county having a charter form of
 38 government with a population in excess of nine hundred thousand shall contain
 39 substantially the following language:

40 For the purposes of enhancing county and municipal public safety,

41 parks, and job creation and enhancing local government services,
 42 shall the county be authorized to collect a local use tax equal to the
 43 total of the existing county sales tax rate [of (insert tax rate)],
 44 provided that if the county sales tax is repealed, reduced or raised
 45 by voter approval, the local use tax rate shall also be repealed,
 46 reduced or raised by the same voter action? Fifty percent of the
 47 revenue shall be used by the county throughout the county for
 48 improving and enhancing public safety, park improvements, and
 49 job creation, and fifty percent shall be used for enhancing local
 50 government services. The county shall be required to make
 51 available to the public an audited comprehensive financial report
 52 detailing the management and use of the countywide portion of the
 53 funds each year.

54 A use tax is the equivalent of a sales tax on purchases from
 55 out-of-state sellers by in-state buyers and on certain taxable
 56 business transactions. [A use tax return shall not be required to
 57 be filed by persons whose purchases from out-of-state vendors do
 58 not in total exceed two thousand dollars in any calendar year]
 59 **Approval of this question will eliminate the disparity in**
 60 **tax rates collected by local and out-of-state sellers by**
 61 **imposing the same rate on all sellers.**

62 YES NO

63 If you are in favor of the question, place an "X" in the box opposite
 64 "YES". If you are opposed to the question, place an "X" in the box
 65 opposite "NO".

66 (b) The ballot of submission in a municipality within a county having a
 67 charter form of government with a population in excess of nine hundred thousand
 68 shall contain substantially the following language:

69 Shall the municipality be authorized to impose a local use tax at
 70 the same rate as the local sales tax by a vote of the governing body,
 71 provided that if any local sales tax is repealed, reduced or raised
 72 by voter approval, the respective local use tax shall also be
 73 repealed, reduced or raised by the same action? [A use tax return
 74 shall not be required to be filed by persons whose purchases from
 75 out-of-state vendors do not in total exceed two thousand dollars in
 76 any calendar year] **Approval of this question will eliminate**

77 **the disparity in tax rates collected by local and out-of-state**
 78 **sellers by imposing the same rate on all sellers.**

79 YES NO

80 If you are in favor of the question, place an "X" in the box opposite
 81 "YES". If you are opposed to the question, place an "X" in the box
 82 opposite "NO".

83 (3) The ballot of submission in any city not within a county shall contain
 84 substantially the following language:

85 Shall the _____ (city name) impose a local use tax at the same rate
 86 as the local sales tax, [currently at a rate of _____ (insert
 87 percent)] which includes the capital improvements sales tax and
 88 the transportation tax, provided that if any local sales tax is
 89 repealed, reduced or raised by voter approval, the respective local
 90 use tax shall also be repealed, reduced or raised by the same
 91 action? [A use tax return shall not be required to be filed by
 92 persons whose purchases from out-of-state vendors do not in total
 93 exceed two thousand dollars in any calendar year] **Approval of**
 94 **this question will eliminate the disparity in tax rates**
 95 **collected by local and out-of-state sellers by imposing the**
 96 **same rate on all sellers.**

97 YES NO

98 If you are in favor of the question, place an "X" in the box opposite
 99 "YES". If you are opposed to the question, place an "X" in the box
 100 opposite "NO".

101 (4) If any of such ballots are submitted on August 6, 1996, and if a
 102 majority of the votes cast on the proposal by the qualified voters voting thereon
 103 are in favor of the proposal, then the ordinance or order and any amendments
 104 thereto shall be in effect October 1, 1996, provided the director of revenue
 105 receives notice of adoption of the local use tax on or before August 16, 1996. If
 106 any of such ballots are submitted after December 31, 1996, and if a majority of
 107 the votes cast on the proposal by the qualified voters voting thereon are in favor
 108 of the proposal, then the ordinance or order and any amendments thereto shall
 109 be in effect on the first day of the calendar quarter which begins at least
 110 forty-five days after the director of revenue receives notice of adoption of the local
 111 use tax. If a majority of the votes cast by the qualified voters voting are opposed
 112 to the proposal, then the governing body of the county or municipality shall have

113 no power to impose the local use tax as herein authorized unless and until the
114 governing body of the county or municipality shall again have submitted another
115 proposal to authorize the governing body of the county or municipality to impose
116 the local use tax and such proposal is approved by a majority of the qualified
117 voters voting thereon.

118 3. The local use tax may be imposed at the same rate as the local sales
119 tax then currently in effect in the county or municipality upon all transactions
120 which are subject to the taxes imposed pursuant to sections 144.600 to 144.745
121 within the county or municipality adopting such tax; provided, however, that if
122 any local sales tax is repealed or the rate thereof is reduced or raised by voter
123 approval, the local use tax rate shall also be deemed to be repealed, reduced or
124 raised by the same action repealing, reducing or raising the local sales tax.

125 4. For purposes of sections 144.757 to 144.761, the use tax may be
126 referred to or described as the equivalent of a sales tax on purchases made from
127 out-of-state sellers by in-state buyers and on certain intrabusiness
128 transactions. Such a description shall not change the classification, form or
129 subject of the use tax or the manner in which it is collected.

Bill ✓

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