

FIRST REGULAR SESSION
[PERFECTED]
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 286
91ST GENERAL ASSEMBLY

Taken up for Perfection March 24, 2001.

House Substitute for House Bill No. 286 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

0208L.05P

AN ACT

To amend chapter 144, RSMo, by adding thereto nine new sections relating to sales and use tax and income tax collection and refund procedures, with an emergency clause for certain sections.

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

Section A. Chapter 144, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 144.049, 144.195, 144.1050, 144.1053, 144.1059, 144.1065, 144.1068,
3 Section 1 and Section B, to read as follows:

**144.049. 1. There is hereby specifically exempted from the provisions of the state
2 and local sales tax law as defined in section 32.085, RSMo, section 67.1545, RSMo, section
3 65.1712, RSMo, sections 70.500 to 70.510, RSMo, section 94.413, RSMo, sections 94.577 to
4 94.1010, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.745, sections 190.335
5 to 190.337, RSMo, section 238.235, RSMo, section 238.410, RSMo, section 321.242, RSMo,
6 section 321.246, RSMo, and sections 644.032 to 644.033, RSMo, and from the computation
7 of the tax levied, assessed or payable pursuant to the state and local sales tax law as defined
8 in section 32.085, RSMo, section 67.1545, RSMo, section 65.1712, RSMo, sections 70.500
9 to 70.510, RSMo, section 94.413, RSMo, sections 94.577 to 94.1010, RSMo, sections 144.010
10 to 144.525, sections 144.600 to 144.745, sections 190.335 to 190.337, RSMo, section 238.235,
11 RSMo, section 238.410, RSMo, section 321.242, RSMo, section 321.246, RSMo, and sections
12 644.032 to 644.033, RSMo, all retail sales of any article of clothing having a taxable value
13 of one hundred dollars or less during the period beginning at 12:01 a.m., August 9, 2001,
14 to midnight, August 12, 2001. For purposes of this section, the term clothing means any**

15 article of wearing apparel, including footwear, intended to be worn on or about the human
16 body. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs,
17 umbrellas, scarves, ties, headbands or belt buckles.

18 2. Any local sales tax revenue lost due to implementation of the sales tax holiday
19 defined in this section shall be reimbursed by the state and every local political subdivision
20 shall be held harmless.

144.195. 1. Notwithstanding the provisions of section 144.190 to the contrary, no
2 refund or credit of sales or use tax erroneously or illegally collected and remitted by a
3 person to the director of revenue shall be allowed pursuant to the provisions of section
4 144.190, unless the person legally obligated to remit the tax demonstrates to the director
5 of revenue's satisfaction that all erroneously or illegally collected amounts have been or
6 will be refunded or credited to the purchasers that originally paid the tax.

7 2. If the person legally obligated to remit the tax proves to the director of revenue's
8 satisfaction that the tax originally reported and remitted to the director was not collected
9 from purchasers but was paid by such person claiming the refund or credit, the refund or
10 credit shall be allowed if the person furnishes amended returns to the director showing the
11 correct amount of gross receipts for each reporting period originally filed and the person
12 submits a written claim for refund or credit pursuant to section 144.190.

13 3. Sales or use tax erroneously or illegally collected and remitted by a person to the
14 director of revenue that is not refunded or credited to the person legally obligated to remit
15 the tax or the purchasers that originally paid the tax shall be deposited in the mental health
16 trust fund, pursuant to section 630.330, RSMo, for the purpose of funding programs for
17 the mentally retarded or developmentally disabled.

18 4. The director of revenue may determine the additional revenue accruing to the
19 state as a result of this act in each calendar year and authorize an increase in the amount
20 that the person required to remit may retain in excess of the two percent authorized in
21 144.140, RSMo.

144.1050. Sections 144.1050 to 144.1068 shall be known as and referred to as the
2 "Simplified Sales and Use Tax Administration Act".

144.1053. As used in sections 144.1050 to 144.1068, the following terms shall mean:

2 (1) "Agreement", the Streamlined Sales and Use Tax Agreement;

3 (2) "Certified automated system", software certified jointly by the states that are
4 signatories to the agreement to calculate the tax imposed by each jurisdiction on a
5 transaction, determine the amount of tax to remit to the appropriate state, and maintain
6 a record of the transaction;

7 (3) "Certified service provider", an agent certified jointly by the states that are

- 8 signatories to the agreement to perform all of the seller's sales tax functions;
- 9 (4) "Person", an individual, trust, estate, fiduciary, partnership, limited liability
- 10 company, limited liability partnership, corporation, or any other legal entity;
- 11 (5) "Sales tax", any sales tax levied pursuant to this chapter, section 32.085, RSMo,
- 12 or any other sales tax authorized by statute and levied by this state or its political
- 13 subdivisions;
- 14 (6) "Seller", any person making sales, leases or rentals of personal property or
- 15 services;
- 16 (7) "State", any state of the United States, and the District of Columbia;
- 17 (8) "Use tax", the use tax levied pursuant to this chapter.

144.1059. For the purposes of reviewing and if necessary amending the agreement

2 embodying the simplification requirements as contained in section 144.1068, the state shall

3 enter into multistate discussions. For purposes of such discussions, the state shall be

4 represented by no more than four delegates, two of whom shall be appointed by the

5 governor, one member of the house of representatives appointed by the speaker of the

6 house and one member of the senate appointed by the pro tempore of the senate.

144.1065. No provision of the agreement authorized by sections 144.1050 to

2 144.1068 in whole or in part invalidates or amends any provision of the law of this state.

3 Implementation of any condition of this agreement in this state, whether adopted before,

4 at, or after membership of this state in the agreement, must be by the action of the general

5 assembly.

144.1068. The director of revenue shall not enter into the streamlined sales and use

2 tax agreement unless the agreement requires each state to abide by the following

3 requirements:

- 4 (1) The agreement must set restrictions to limit over time the number of state rates;
- 5 (2) The agreement must establish uniform standards for the following:
- 6 (a) The sourcing of transactions to taxing jurisdictions;
- 7 (b) The administration of exempt sales; and
- 8 (c) Sales and use tax returns and remittances;
- 9 (3) The agreement must provide a central, electronic registration system that allows
- 10 a seller to register to collect and remit sales and use taxes for all signatory states;
- 11 (4) The agreement must provide that registration with the central registration
- 12 system and the collection of sales and use taxes in the signatory states will not be used as
- 13 a factor in determining whether the seller has nexus with a state for any tax;
- 14 (5) The agreement must provide for reduction of the burdens of complying with
- 15 local sales and use taxes through the following:

- 16 **(a) Restricting variances between the state and local tax bases;**
17 **(b) Requiring states to administer any sales and use taxes levied by local**
18 **jurisdictions within the state so that sellers collecting and remitting these taxes will not**
19 **have to register or file returns with, remit funds to, or be subject to independent audits**
20 **from local taxing jurisdictions;**
21 **(c) Restricting the frequency of changes in the local sales and use tax rates and**
22 **setting effective dates for the application of local jurisdictional boundary changes to local**
23 **sales and use taxes; and**
24 **(d) Providing notice of changes in local sales and use tax rates and of changes in the**
25 **boundaries of local taxing jurisdictions;**
26 **(6) The agreement must outline any monetary allowances that are to be provided**
27 **by the states to sellers or certified service providers. The agreement must allow for a joint**
28 **public and private sector study of the compliance cost on sellers and certified service**
29 **providers to collect sales and use taxes for state and local governments under various levels**
30 **of complexity, to be completed by July 1, 2002;**
31 **(7) The agreement must require each state to certify compliance with the terms of**
32 **the agreement prior to joining and to maintain compliance, under the laws of the member**
33 **state, with all provisions of the agreement while a member;**
34 **(8) The agreement must require each state to adopt a uniform policy for certified**
35 **service providers that protects the privacy of consumers and maintains the confidentiality**
36 **of tax information; and**
37 **(9) The agreement must provide for the appointment of an advisory council of**
38 **private sector representatives and an advisory council of nonmember state representatives**
39 **to consult with in the administration of the agreement.**

Section 1. No deduction shall be allowed pursuant to section 143.124, RSMo, for
2 **any amount of an annuity, pension or retirement allowance to the extent that such amount**
3 **is excluded from the taxpayer's federal or Missouri adjusted gross income, or is otherwise**
4 **deducted from either the taxpayer's federal or Missouri adjusted gross income in**
5 **calculating Missouri taxable.**

 Section B. Because immediate action is necessary to prevent the imposition of sales tax
2 on retail sales of clothing, the enactment of section 144.049 is deemed necessary for the
3 immediate preservation of the public health, welfare, peace and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the enactment of section
5 144.049 shall be in full force and effect July 1, 2001, or upon its passage and approval,
6 whichever later occurs.