

SECOND REGULAR SESSION

HOUSE BILL NO. 1713

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time April 1, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4904L.021

AN ACT

To repeal sections 32.087, 143.782, and 144.083, RSMo, and to enact in lieu thereof three new sections relating to tax collection.

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

Section A. Sections 32.087, 143.782, and 144.083, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 32.087, 143.782, and 144.083, to read as follows:

32.087. 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

4. The brackets required to be established by the director of revenue under the provisions

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

17 of section 144.285, RSMo, shall be based upon the sum of the combined rate of the state sales
18 tax and all local sales taxes imposed under the provisions of the local sales tax law.

19 5. The ordinance or order imposing a local sales tax under the local sales tax law shall
20 impose upon all sellers a tax for the privilege of engaging in the business of selling tangible
21 personal property or rendering taxable services at retail to the extent and in the manner provided
22 in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue
23 issued pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of
24 the state sales tax or state highway use tax and all local sales taxes imposed under the provisions
25 of the local sales tax law.

26 6. On and after the effective date of any local sales tax imposed under the provisions of
27 the local sales tax law, the director of revenue shall perform all functions incident to the
28 administration, collection, enforcement, and operation of the tax, and the director of revenue
29 shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes
30 authorized under the authority of the local sales tax law. All local sales taxes imposed under the
31 local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri
32 shall be collected together and reported upon such forms and under such administrative rules and
33 regulations as may be prescribed by the director of revenue.

34 7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing
35 the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the
36 collection of any local sales tax imposed under the local sales tax law except as modified by the
37 local sales tax law.

38 8. All exemptions granted to agencies of government, organizations, persons and to the
39 sale of certain articles and items of tangible personal property and taxable services under the
40 provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may
41 hereafter be amended, it being the intent of this general assembly to ensure that the same sales
42 tax exemptions granted from the state sales tax law also be granted under the local sales tax law,
43 are hereby made applicable to the imposition and collection of all local sales taxes imposed
44 under the local sales tax law.

45 9. The same sales tax permit, exemption certificate and retail certificate required by
46 sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax
47 shall satisfy the requirements of the local sales tax law, and no additional permit or exemption
48 certificate or retail certificate shall be required; except that the director of revenue may prescribe
49 a form of exemption certificate for an exemption from any local sales tax imposed by the local
50 sales tax law.

51 10. All discounts allowed the retailer under the provisions of the state sales tax law for
52 the collection of and for payment of taxes under the provisions of the state sales tax law are

53 hereby allowed and made applicable to any local sales tax collected under the provisions of the
54 local sales tax law.

55 11. The penalties provided in section 32.057 and sections 144.010 to 144.525, RSMo,
56 for a violation of the provisions of those sections are hereby made applicable to violations of the
57 provisions of the local sales tax law.

58 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under
59 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard
60 motors, shall be deemed to be consummated at the place of business of the retailer unless the
61 tangible personal property sold is delivered by the retailer or his agent to an out-of-state
62 destination. In the event a retailer has more than one place of business in this state which
63 participates in the sale, the sale shall be deemed to be consummated at the place of business of
64 the retailer where the initial order for the tangible personal property is taken, even though the
65 order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A
66 sale by a retailer's agent or employee shall be deemed to be consummated at the place of business
67 from which he works.

68 (2) For the purposes of any local sales tax imposed by an ordinance or order under the
69 local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be
70 deemed to be consummated at the residence of the purchaser and not at the place of business of
71 the retailer, or the place of business from which the retailer's agent or employee works.

72 (3) For the purposes of any local tax imposed by an ordinance or under the local sales
73 tax law on charges for mobile telecommunications services, all taxes of mobile
74 telecommunications service shall be imposed as provided in the Mobile Telecommunications
75 Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

76 13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale
77 of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the
78 seller, but shall be collected by the director of revenue at the time application is made for a
79 certificate of title, if the address of the applicant is within a taxing entity imposing a local sales
80 tax under the local sales tax law.

81 14. The director of revenue and any of his deputies, assistants and employees who have
82 any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,
83 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the
84 director of revenue under the provisions of the local sales tax law shall enter a surety bond or
85 bonds payable to any and all taxing entities in whose behalf such funds have been collected
86 under the local sales tax law in the amount of one hundred thousand dollars for each such tax;
87 but the director of revenue may enter into a blanket bond covering himself and all such deputies,
88 assistants and employees. The cost of any premium for such bonds shall be paid by the director

89 of revenue from the share of the collections under the sales tax law retained by the director of
90 revenue for the benefit of the state.

91 15. The director of revenue shall annually report on his management of each trust fund
92 which is created under the local sales tax law and administration of each local sales tax imposed
93 under the local sales tax law. He shall provide each taxing entity imposing one or more local
94 sales taxes authorized by the local sales tax law with a detailed accounting of the source of all
95 funds received by him for the taxing entity. Notwithstanding any other provisions of law, the
96 state auditor shall annually audit each trust fund. A copy of the director's report and annual audit
97 shall be forwarded to each taxing entity imposing one or more local sales taxes.

98 16. Within the boundaries of any taxing entity where one or more local sales taxes have
99 been imposed, if any person is delinquent in the payment of the amount required to be paid by
100 him under the local sales tax law or in the event a determination has been made against him for
101 taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection
102 of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to
103 144.525, RSMo. Where the director of revenue has determined that suit must be filed against
104 any person for the collection of delinquent taxes due the state under the state sales tax law, and
105 where such person is also delinquent in payment of taxes under the local sales tax law, the
106 director of revenue shall notify the taxing entity [to which delinquent taxes are due under the
107 local sales tax law by United States registered mail or certified mail at least ten days before
108 turning the case over to the attorney general. The taxing entity, acting through its attorney, may
109 join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due
110 such taxing entity.] in the event any person fails or refuses to pay the amount of any local sales
111 tax due[, the director of revenue shall promptly notify the taxing entity to which the tax would
112 be due] so that appropriate action may be taken by the taxing entity.

113 17. Where property is seized by the director of revenue under the provisions of any law
114 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed
115 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax
116 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join
117 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing
118 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums
119 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

120 18. If a local sales tax has been in effect for at least one year under the provisions of the
121 local sales tax law and voters approve reimposition of the same local sales tax at the same rate
122 at an election as provided for in the local sales tax law prior to the date such tax is due to expire,
123 the tax so reimposed shall become effective the first day of the first calendar quarter after the
124 director receives a certified copy of the ordinance, order or resolution accompanied by a map

125 clearly showing the boundaries thereof and the results of such election, provided that such
126 ordinance, order or resolution and all necessary accompanying materials are received by the
127 director at least thirty days prior to the expiration of such tax. Any administrative cost or
128 expense incurred by the state as a result of the provisions of this subsection shall be paid by the
129 city or county reimposing such tax.

143.782. As used in sections 143.782 to 143.788, unless the context clearly requires
2 otherwise, the following terms shall mean and include:

3 (1) "Court", the supreme court, court of appeals, or any circuit court of the state;

4 (2) "Debt", any sum due and legally owed to any state agency which has accrued through
5 contract, subrogation, tort, or operation of law regardless of whether there is an outstanding
6 judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed,
7 or any support obligation which is being enforced by the division of family services on behalf
8 of a person who is receiving support enforcement services pursuant to section 454.425, RSMo;

9 (3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal
10 entity owing a debt;

11 (4) "Department", the department of revenue of the state of Missouri;

12 (5) "Refund", the Missouri income tax refund which the department determines to be due
13 any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include
14 any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo, **unless**
15 **such refund is being offset for a delinquency or debt relating to individual income tax or**
16 **a property tax credit;** and

17 (6) "State agency", any department, division, board, commission, office, or other agency
18 of the state of Missouri, including public community college district.

144.083. 1. The director of revenue shall require all persons who are responsible for the
2 collection of taxes under the provisions of section 144.080 to procure a retail sales license at no
3 cost to the licensee which shall be prominently displayed at his place of business, and the license
4 is valid until revoked by the director or surrendered by the person to whom issued when sales
5 are discontinued. The director shall issue the retail sales license within ten working days
6 following the receipt of a properly completed application. Any person applying for a retail sales
7 license or reinstatement of a revoked sales tax license who owes any tax under sections 144.010
8 to 144.510 **or sections 143.191 to 143.261, RSMo**, must pay the amount due plus interest and
9 penalties before the department may issue the applicant a license or reinstate the revoked license.
10 All persons beginning business subsequent to August 13, 1986, and who are required to collect
11 the sales tax shall secure a retail sales license prior to making sales at retail. Such license may,
12 after ten days' notice, be revoked by the director of revenue only in the event the licensee shall
13 be in default for a period of sixty days in the payment of any taxes levied under section 144.020

14 **or sections 143.191 to 143.261, RSMo.**

15 2. The possession of a retail sales license shall be a prerequisite to the issuance of any
16 city or county occupation license or any state license which is required for conducting any
17 business where goods are sold at retail. The revocation of a retailer's license by the director shall
18 render the occupational license or the state license null and void.

19 3. No person responsible for the collection of taxes under section 144.080 shall make
20 sales at retail unless such person is the holder of a valid retail sales license. After all appeals
21 have been exhausted, the director of revenue may notify the county or city law enforcement
22 agency representing the area in which the former licensee's business is located that the retail sales
23 license of such person has been revoked, and that any county or city occupation license of such
24 person is also revoked. The county or city may enforce the provisions of this section, and may
25 prohibit further sales at retail by such person.