

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 48
93RD GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 21, 2005, with recommendation that the Senate Committee Substitute do pass.

0382S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 144.518 and 184.357, RSMo, and to enact in lieu thereof four new sections relating to museum and tourism-related activities, with an emergency clause.

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

Section A. Sections 144.518 and 184.357, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 67.1159, 82.850, 144.518, and
3 184.357, to read as follows:

**67.1159. 1. In any case in which any tax, interest or penalty imposed
2 under sections 67.1150 to 67.1158 is not paid when due, the authority or its
3 designated agent may file for record in the real estate records of the
4 recorder's office of the city or the county where the business giving rise to
5 the tax, interest, or penalty is located, or in which the person owing the tax,
6 interest, or penalty resides, a notice of lien specifying the amount of tax,
7 interest, or penalty due and the name of the person liable for the same. From
8 the time of filing any such notice, the amount of the tax specified in such
9 notice shall have the force and effect of a lien against the real and personal
10 property of the business of such person or the facility giving rise to the tax
11 for the amount specified in such notice.**

12 **2. A lien created under subsection 1 of this section may be released:**

13 **(1) By filing for record in the office of the recorder where the lien was
14 originally filed a release of the lien executed by a duly authorized agent of
15 the authority upon payment of the tax, interest, and penalty due; or**

16 **(2) Upon receipt by the authority of sufficient security to secure
17 payment thereof; or**

18 **(3) By final judgment holding such lien to have been erroneously
19 imposed.**

20 3. Each recorder shall receive the standard statutory fee for the
21 recording of each notice of lien and for each release of lien filed for
22 record. The authority is authorized to collect an additional penalty from each
23 taxpayer equal to the cost of filing a notice of lien or release with respect to
24 such taxpayer.

25 4. Any person operating or managing a business or facility who owes
26 any tax, penalty, or interest, or is required to file any report with the
27 authority, shall notify the authority in writing at least ten days prior to any
28 sale of the entire business or facility, or the entire assets or property of the
29 business or facility, or a major part thereof. Such notice shall include the
30 name of the business or facility, the name of the owner of the business or
31 facility, the name of the person collecting the tax at the time of the notice, the
32 name of the purchaser, and the intended date of purchase. A purchaser of
33 such business, facility, assets, or property who takes with notice of any
34 delinquent tax or with notice of noncompliance with this section takes subject
35 to any tax, penalty, or interest owed by the seller.

36 5. The authority shall have the power to bring a civil action in any
37 court of competent jurisdiction to enjoin the operation of the business or
38 facility of any person or the successor-in-interest to any person operating or
39 managing the same business or facility, which business or facility gave rise
40 to any tax, penalty, or interest which is unpaid or to enjoin the operating or
41 managing of any such business or facility whose owners or successors-in-
42 interest are operating or managing in violation of the provisions of sections
43 67.1150 to 67.1159. The courts shall expedite the hearing on the merits of any
44 such action and shall not require the authority to post a bond pending such
45 hearing.

82.850. 1. As used in this section, the following terms mean:

2 (1) "Food", all products commonly used for meals or drinks, including
3 alcoholic beverages;

4 (2) "Food establishment", any café, cafeteria, lunchroom, or restaurant
5 which sells meals or drinks to the public;

6 (3) "Gross receipts", the gross receipts from sales of meals or drinks
7 prepared on the premises and delivered to the purchaser (excluding sales
8 tax);

9 (4) "Museum", any museum dedicated to the preservation of the history
10 of the westward expansion movement of the United States by covered wagon,
11 train, water, or similar means of transportation, and which is or was owned

12 by this state on the effective date of the tax authorized in this section, and
13 which is operated by the city or any other person;

14 (5) "Person", any individual, corporation, partnership, or other entity;

15 (6) "Tourism-related activities", those activities commonly associated
16 with the development, promotion, and operation of tourism and related
17 facilities for the city, including historic preservation.

18 2. The city council of any home rule city with more than one hundred
19 thirteen thousand two hundred but less than one hundred thirteen thousand
20 three hundred inhabitants may impose a tax on the gross receipts derived
21 from the amount of sales or charges for all meals and drinks furnished by
22 every person operating a food establishment situated in the city or a portion
23 thereof. The tax authorized in this section may be imposed in increments of
24 one-eighth of one percent, up to a maximum of two percent of such gross
25 receipts. One-half of any such tax imposed under this section shall be used
26 solely for the development, promotion, and operation of a museum. Such tax
27 shall be in addition to all other sales taxes imposed on such food
28 establishments, and shall be stated separately from all other charges and
29 taxes. Such tax shall not become effective unless the city council, by order
30 or ordinance, submits to the voters of the city a proposal to authorize the city
31 council to impose a tax under this section on any day available for such city
32 to hold municipal elections or at a special election called for the purpose.

33 3. The ballot of submission for the tax authorized in this section shall
34 be in substantially the following form:

35 Shall (insert the name of the city) impose a tax on
36 the gross receipts derived from the sales of meals or drinks at any food
37 establishment situated in (name of city) at a rate of
38 (insert rate of percent) percent for the sole purpose of providing funds for the
39 development, promotion, and operation of museum and tourism-related
40 activities and facilities, with (insert rate of percent) percent of such tax
41 dedicated to museum purposes?

42 YES NO

43 If a majority of the votes cast on the question by the qualified voters voting
44 thereon are in favor of the question, then the tax shall become effective on
45 the first day of the second calendar quarter immediately following
46 notification to the department of revenue. If a majority of the votes cast on
47 the question by the qualified voters voting thereon are opposed to the

48 question, then the tax shall not become effective unless and until the question
49 is resubmitted under this section to the qualified voters and such question is
50 approved by a majority of the qualified voters voting on the question.

51 4. The tax imposed under this section shall be known as the "Museum
52 and Tourism-Related Activities Tax". Each city imposing a tax under this
53 section shall establish separate trust funds to be known as the "Museum Trust
54 Fund" and the "Tourism-Related Trust Fund". The city treasurer shall deposit
55 the revenue derived from the tax imposed under this section for museum
56 purposes in the museum trust fund, and shall deposit the revenue derived for
57 tourism-related purposes in the tourism-related trust fund. The proceeds of
58 such tax shall be appropriated by the city council exclusively for the
59 development, promotion, and operation of museum and tourism-related
60 activities and facilities in the city.

61 5. All applicable provisions in chapter 144, RSMo, relating to state sales
62 tax, and in section 32.057, RSMo, relating to confidentiality, shall apply to the
63 collection of any tax imposed under this section.

64 6. All exemptions for government agencies, organizations, individuals,
65 and on the sale of certain tangible personal property and taxable services
66 granted under sections 144.010 to 144.525, RSMo, shall be applicable to the
67 imposition and collection of any tax imposed under this section.

68 7. The same sales tax permits, exemption certificates, and retail
69 certificates required for the administration and collection of state sales tax
70 in chapter 144, RSMo, shall be deemed adequate for the administration and
71 collection of any tax imposed under this section, and no additional permit,
72 exemption certificate, or retail certificate shall be required, provided that the
73 director of the department of revenue may prescribe a form of exemption
74 certificate for an exemption from any tax imposed under this section.

75 8. Any individual, firm, or corporation subject to any tax imposed
76 under this section shall collect the tax from the patrons of the food
77 establishment, and each such patron of the food establishment shall pay the
78 amount of the tax due to the individual, firm, or corporation required to
79 collect the tax. The city shall permit the individual required to remit the tax
80 to deduct and retain an amount equal to two percent of the taxes
81 collected. The city council may either require the license collector of the city
82 to collect the tax, or may enter into an agreement with the director of the
83 department of revenue to have the director collect the tax on behalf of the
84 city. In the event such an agreement is entered into, the director shall

85 perform all functions incident to the collection, enforcement, and operation
 86 of such tax, and shall collect the tax on behalf of the city and shall transfer
 87 the funds collected to the city license collector, except for an amount not less
 88 than one percent nor more than three percent, which shall be retained by the
 89 director for the costs of collecting the tax. If the director is to collect such
 90 tax, the tax shall be collected and reported upon such forms and under such
 91 administrative rules and regulations as the director may prescribe. All
 92 refunds and penalties as provided in sections 144.010 to 144.525, RSMo, are
 93 hereby made applicable to violations of this section.

94 9. It is unlawful for any person to advertise or hold out or state to the
 95 public or to any food establishment patron, directly or indirectly, that the tax
 96 or any part thereof imposed by this section, and required to be collected by
 97 that person, will be absorbed by that person, or anyone on behalf of that
 98 person, or that it will not be separately stated and added to the price of the
 99 food establishment bill, or if added, that it or any part thereof will be
 100 refunded.

101 10. The governing body of any city that has adopted the tax authorized
 102 in this section may submit the question of repeal of the tax to the voters on
 103 any date available for elections for the city. The ballot of submission shall be
 104 in substantially the following form:

105 Shall (insert the name of the city) repeal the sales tax
 106 imposed at a rate of (insert rate of percent) percent for the sole purpose
 107 of providing funds for the development, promotion, and operation of museum
 108 and tourism-related activities and facilities, with (insert rate of percent)
 109 percent of such tax dedicated to museum purposes?

110 YES NO

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

113 If a majority of the votes cast on the proposal are in favor of repeal, that
 114 repeal shall become effective on December thirty-first of the calendar year in
 115 which such repeal was approved. If a majority of the votes cast on the
 116 question by the qualified voters voting thereon are opposed to the repeal,
 117 then the tax authorized in this section shall remain effective until the
 118 question is resubmitted under this section to the qualified voters, and the
 119 repeal is approved by a majority of the qualified voters voting on the
 120 question.

121 **11. Whenever the governing body of any city that has adopted the tax**
122 **authorized in this section receives a petition, signed by ten percent of the**
123 **registered voters of the city voting in the last gubernatorial election, calling**
124 **for an election to repeal the tax imposed under this section, the governing**
125 **body shall submit to the voters of the city a proposal to repeal the tax. If a**
126 **majority of the votes cast on the question by the qualified voters voting**
127 **thereon are in favor of the repeal, that repeal shall become effective on**
128 **December thirty-first of the calendar year in which such repeal was approved.**
129 **a majority of the votes cast on the question by the qualified voters voting**
130 **thereon are opposed to the repeal, then the tax shall remain effective until**
131 **the question is resubmitted under this section to the qualified voters and the**
132 **repeal is approved by a majority of the qualified voters voting on the**
133 **question.**

134 **12. If the tax is repealed, all funds remaining in the special trust funds**
135 **shall continue to be used solely for the designated purposes. Any funds in the**
136 **special trust funds which are not needed for current expenditures shall be**
137 **invested in the same manner as other funds are invested. Any interest and**
138 **moneys earned on such investments shall be credited to the funds.**

144.518. In addition to the exemptions granted pursuant to section 144.030, there
2 is hereby specifically exempted from the provisions of sections 66.600 to 66.635, RSMo,
3 sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo,
4 sections 67.550 to 67.594, RSMo, sections 67.665 to 67.667, RSMo, sections 67.671 to
5 67.685, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730
6 to 67.739, RSMo, sections 67.1000 to 67.1012, RSMo, **section 82.850, RSMo**, sections
7 92.325 to 92.340, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.570,
8 RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, section 94.660, RSMo,
9 sections 94.700 to 94.755, RSMo, sections 94.800 to 94.825, RSMo, section 94.830, RSMo,
10 sections 94.850 to 94.857, RSMo, sections 94.870 to 94.881, RSMo, section 94.890, RSMo,
11 sections 144.010 to 144.525, and sections 144.600 to 144.761, sections 190.335 to 190.337,
12 RSMo, sections 238.235 and 238.410, RSMo, section 321.242, RSMo, section 573.505,
13 RSMo, and section 644.032, RSMo, and from the computation of the tax levied, assessed
14 or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.391 to 67.395, RSMo,
15 sections 67.500 to 67.545, RSMo, section 67.547, RSMo, sections 67.550 to 67.594, RSMo,
16 sections 67.665 to 67.667, RSMo, sections 67.671 to 67.685, RSMo, sections 67.700 to
17 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, sections 67.1000
18 to 67.1012, RSMo, **section 82.850, RSMo**, sections 92.325 to 92.340, RSMo, sections

19 92.400 to 92.421, RSMo, sections 94.500 to 94.570, RSMo, section 94.577, RSMo, sections
 20 94.600 to 94.655, RSMo, section 94.660, RSMo, sections 94.700 to 94.755, RSMo, sections
 21 94.800 to 94.825, RSMo, section 94.830, RSMo, sections 94.850 to 94.857, RSMo, sections
 22 94.870 to 94.881, RSMo, section 94.890, RSMo, sections 144.010 to 144.525, sections
 23 144.600 to 144.761, sections 190.335 to 190.337, RSMo, sections 238.235 and 238.410,
 24 RSMo, section 321.242, RSMo, section 573.505, RSMo, and section 644.032, RSMo,
 25 machines or parts for machines used in a commercial, coin-operated amusement and
 26 vending business where sales tax is paid on the gross receipts derived from the use of
 27 commercial, coin-operated amusement and vending machines.

184.357. 1. The board of directors of any metropolitan zoological park and
 2 museum district as established pursuant to the provisions of sections 184.350 to 184.384,
 3 on behalf of the district, may request the election officials of any city and county of such
 4 district to submit a proposition or propositions to increase the tax rate for the zoological
 5 park subdistrict and the art museum subdistrict set in section 184.350 and to increase
 6 the rate for the botanical garden subdistrict set in section 184.353 to the qualified voters
 7 of such district at any general, primary or special election. Such election officials, upon
 8 receipt of such request in the form of a verified resolution or resolutions approved by the
 9 majority of the members of such district board of directors, shall set the date of such
 10 election and give notice of such election as provided by sections 115.063 and 115.065,
 11 RSMo.

12 2. Such proposition or propositions shall be jointly or severally submitted to the
 13 voters in substantially the following form at such election:

14 (1) Shall the Metropolitan Zoological Park and Museum District of the City of
 15 and County of be authorized to increase the tax
 16 rate for the zoological park subdistrict up to the maximum tax rate of eight cents, or any
 17 percent thereof, on each \$100 of assessed valuation of taxable property within the
 18 district for the purpose of operating, maintaining and otherwise financially supporting
 19 the subdistrict? The tax rate shall be set annually by the board based on the budget
 20 submitted by the zoological park subdistrict and approved by the board. This tax rate
 21 shall replace the present tax rate of cents for the zoological park subdistrict.

22 YES NO

23 (2) Shall the Metropolitan Zoological Park and Museum District of the City of
 24 and County of be authorized to increase the tax
 25 rate for the art museum subdistrict up to the maximum tax rate of eight cents, or any
 26 percent thereof, on each \$100 of assessed valuation of taxable property within the
 27 district for the purpose of operating, maintaining and otherwise financially supporting

28 the subdistrict and approved by the board? The tax rate shall be set annually by the
29 board based on the budget submitted by the art museum subdistrict and approved by the
30 board. This tax rate shall replace the present tax rate of cents for the art museum
31 subdistrict.

32 YES NO

33 (3) Shall the Metropolitan Zoological Park and Museum District of the City of
34 and County of be authorized to increase the tax rate for the botanical
35 garden subdistrict up to the maximum tax rate of six cents, or any percent thereof, on
36 each \$100 of assessed valuation of taxable property within the district for the purpose
37 of operating, maintaining and otherwise financially supporting the subdistrict and
38 approved by the board? The tax rate shall be set annually by the board based on the
39 budget submitted by the botanical garden subdistrict and approved by the board. This
40 tax rate shall replace the present tax rate of cents for the botanical garden
41 subdistrict.

42 YES NO

43 (4) **Shall the Metropolitan Zoological Park and Museum District of the**
44 **City of and County of be authorized to**
45 **increase the tax rate for the Missouri history museum subdistrict up to the**
46 **maximum tax rate of six cents, or any percent thereof, on each \$100 of**
47 **assessed valuation of taxable property within the district for the purpose of**
48 **operating, maintaining, and otherwise financially supporting the subdistrict**
49 **and approved by the board? The tax rate shall be set annually by the board**
50 **based on the budget submitted by the Missouri history museum subdistrict**
51 **and approved by the board. This tax rate shall replace the present tax rate**
52 **of cents for the Missouri history museum subdistrict.**

53 YES NO

54 In the event that a majority of the voters voting on such proposition or propositions in
55 such city and the majority of the voters voting on such proposition or propositions in
56 such county cast votes "YES" on the proposition or propositions, then the tax rate for
57 such subdistrict shall be deemed in full force and effect as of the first day of the second
58 month following the election. The results of the aforesaid election shall be certified by
59 the election officials of such city and county, respectively, to the respective chief
60 executive officers of such city and county not less than thirty days after the day on which
61 such election was held. The cost of the election shall be paid as provided by sections
62 115.063 and 115.065, RSMo. In the event the proposition or propositions shall fail to
63 receive a majority of the votes "YES" in either the city or the county, then the

64 proposition or propositions shall not be resubmitted at any election held within one year
65 of the date of the election the proposition or propositions were rejected.

Section B. Because immediate action is necessary to meet an electoral deadline,
2 section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and section A of this act shall be in full force and effect
5 upon its passage and approval.

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