

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 459

95TH GENERAL ASSEMBLY

1223L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 190, RSMo, by adding thereto sixteen new sections relating to ambulance service reimbursement allowance tax.

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

Section A. Chapter 190, RSMo, is amended by adding thereto sixteen new sections, to
2 be known as sections 190.800, 190.803, 190.806, 190.809, 190.812, 190.815, 190.818, 190.821,
3 190.824, 190.827, 190.830, 190.833, 190.836, 190.839, 190.842, and 1, to read as follows:

190.800. 1. Each ground ambulance service, except for any ambulance service
2 **owned and operated by an entity owned and operated by the state of Missouri, including**
3 **but not limited to any hospital owned or operated by the board of curators, as defined in**
4 **chapter 172, RSMo, or any department of the state, shall, in addition to all other fees and**
5 **taxes now required or paid, pay an ambulance service reimbursement allowance tax for**
6 **the privilege of engaging in the business of providing ambulance services in this state.**

7 **2. For the purpose of this section, the following terms shall mean:**

8 **(1) "Ambulance", the same meaning as such term is defined in section 190.100;**

9 **(2) "Ambulance service", the same meaning as such term is defined in section**
10 **190.100;**

11 **(3) "Engaging in the business of providing ambulance services in this state",**
12 **accepting payment for such services;**

13 **(4) "Gross receipts", all amounts received by an ambulance service licensed under**
14 **section 190.109 for its own account from the provision of all emergency services, as defined**
15 **in section 190.100, to the public in the state of Missouri, but shall not include revenue from**

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.

16 taxes collected under law, grants, subsidies received from governmental agencies, or the
17 value of charity care.

190.803. 1. Each ambulance service's reimbursement allowance shall be based on
2 its gross receipts using a formula set forth in rules promulgated by the department of social
3 services as provided in section 190.839. The determination of tax due shall be the monthly
4 gross receipts reported to the department of revenue multiplied by the tax rate established
5 by rule by the department of social services. Such tax rate may be a graduated rate based
6 on gross receipts and shall not exceed a rate of six percent per annum of gross receipts.

7 2. Notwithstanding any other provision of law to the contrary, any action
8 respecting the validity of the rules promulgated under this section or section 190.815 or
9 190.839 shall be filed in the circuit court of Cole County. The circuit court of Cole County
10 shall hear the matter as the court of original jurisdiction.

190.806. Each ambulance service shall keep such records as may be necessary to
2 determine the amount of its reimbursement allowance. On or before the first day of
3 October of each year, every ambulance service shall submit to the department of revenue
4 a statement that accurately reflects such information as is necessary to determine such
5 ambulance service's reimbursement allowance tax. Each licensed ambulance service shall
6 report gross receipts to the department of revenue. The department of revenue shall
7 provide the department of social services with the information that is necessary to
8 implement the provisions of sections 190.800 to 190.842. The information obtained by the
9 department of social services from the department of revenue shall be confidential and any
10 employee of the department of social services who unlawfully discloses any such
11 information for any other purpose, except as authorized by law, shall be subject to the
12 penalties specified in section 32.057, RSMo.

190.809. 1. The director of the department of social services shall make a
2 determination as to the amount of ambulance service reimbursement allowance tax due
3 from each ambulance service.

4 2. The director of the department of social services shall notify each ambulance
5 service of the annual amount of its reimbursement allowance tax on or before the first day
6 of October each year. Such amount may be paid in monthly increments over the balance
7 of the reimbursement allowance tax period, as set forth in subsection 1 of section 190.821.

8 3. The department of social services is authorized to offset the federal
9 reimbursement allowance tax owed by an ambulance service against any MO HealthNet
10 payment due such ambulance service, if the ambulance service requests such an offset. The
11 amounts to be offset shall result, so far as practicable, in withholding from the ambulance
12 service an amount substantially equivalent to the assessment to be due from the ambulance

13 service. The office of administration and state treasurer are authorized to make any fund
14 transfers necessary to execute the offset.

15 4. The department of social services may adjust the tax rate quarterly on a
16 prospective basis. The department of social services may adjust more frequently for
17 individual ambulance services if there is a substantial and statistically significant change
18 in their service provider characteristics. The department of social services may define such
19 adjustment criteria by rule.

2 190.812. 1. Each ambulance service reimbursement allowance tax determination
3 shall be final after receipt of written notice from the department of social services, unless
4 the ambulance service files a protest with the director of the department of social services
5 setting forth the grounds on which the protest is based, within thirty days from the date
6 of receipt of written notice from the department of social services to the ambulance service.

7 2. If a timely protest is filed, the director of the department of social services shall
8 reconsider the determination and, if the ambulance service has so requested, the director
9 or the director's designee shall grant the ambulance service a hearing to be held within
10 forty-five days after the protest is filed, unless extended by agreement between the
11 ambulance service and the director. The director shall issue a final decision within forty-
12 five days of the completion of the hearing. After reconsideration of the reimbursement
13 allowance determination and a final decision by the director of the department of social
14 services, an ambulance service's appeal of the director's final decision shall be to the
15 administrative hearing commission in accordance with section 208.156, RSMo, and section
16 621.055, RSMo.

2 190.815. The director of the department of social services shall prescribe by rule
3 the form and content of any document required to be filed under sections 190.800 to
4 190.839. By November 30, 2009, the department of social services shall promulgate rules
5 to implement the provisions of section 190.833.

2 190.818. 1. The ambulance service reimbursement allowance tax owed or, if an
3 offset has been requested, the balance, if any, after such offset shall be remitted by the
4 ambulance service to the department of social services. The remittance shall be made
5 payable to the director of the department of revenue. The amount remitted shall be
6 deposited in the state treasury to the credit of the "Ambulance Service Reimbursement
7 Allowance Fund", which is hereby created for the sole purpose of providing payments to
8 ambulance services. All investment earnings of the ambulance service reimbursement
9 allowance fund shall be credited to the ambulance service reimbursement allowance fund.
10 The unexpended balance in the ambulance service reimbursement allowance fund at the
end of the biennium is exempt from the provisions of section 33.080, RSMo. The

11 unexpended balance shall not revert to the general revenue fund, but shall accumulate in
12 the ambulance service reimbursement allowance fund from year to year.

13 2. An offset as authorized by this section or a payment to the ambulance service
14 reimbursement allowance fund shall be accepted as payment of the ambulance service's
15 obligation imposed by section 190.800.

16 3. The state treasurer shall maintain records that show the amount of money in the
17 ambulance service reimbursement allowance fund at any time and the amount of any
18 investment earnings on that amount. The department of social services shall disclose such
19 information to any interested party upon written request.

2 190.821. 1. An ambulance service reimbursement allowance tax period as provided
3 in sections 190.800 to 190.839 shall be from the first day of October to the thirtieth day of
4 September. The department shall notify each ambulance service with a balance due on the
5 thirtieth day of September of each year the amount of such balance due. If any ambulance
6 service fails to pay its ambulance service reimbursement allowance tax within thirty days
7 of such notice, the reimbursement allowance shall be delinquent. The reimbursement
8 allowance tax may remain unpaid during an appeal or as allowed in section 190.812.

9 2. Except as otherwise provided in this section, if any reimbursement allowance tax
10 imposed under section 190.800 for a previous reimbursement allowance tax period is
11 unpaid and delinquent, the department of social services may proceed to enforce the state's
12 lien against the property of the ambulance service and to compel the payment of such
13 reimbursement allowance tax in the circuit court having jurisdiction in the county where
14 the ambulance service is located. In addition, the director of the department of social
15 services or the director's designee may cancel or refuse to issue, extend, or reinstate a MO
16 HealthNet participation agreement to any ambulance service which fails to pay such
17 delinquent reimbursement allowance tax required by section 190.800 unless under appeal
18 as allowed in section 190.812.

19 3. Except as otherwise provided in this section, failure to pay a delinquent
20 reimbursement allowance tax imposed under section 190.800 shall be grounds for denial,
21 suspension, or revocation of a license granted under this chapter. The director of the
22 department of social services may notify the department of health and senior services to
23 deny, suspend, or revoke the license of any ambulance service which fails to pay a
delinquent reimbursement allowance tax unless under appeal as allowed in section 190.812.

2 190.824. Nothing in sections 190.800 to 190.839 shall be deemed to affect or in any
3 way limit the tax-exempt or nonprofit status of any ambulance service granted by state or
federal law.

2 190.827. The department of social services shall make payments to those ambulance
services that have a valid MO HealthNet participation agreement with the department.

3 The ambulance service reimbursement allowance shall not be used to supplant, and shall
4 be in addition to, general revenue payments to ambulance services.

190.830. If the family support division is unable to make a determination regarding
2 MO HealthNet eligibility for a patient within sixty days of the submission of a completed
3 application for medical assistance for services of an ambulance service, the patient shall
4 be MO HealthNet eligible until the application is approved or denied. However, in no
5 event shall benefits be construed to commence prior to the date of application.

190.833. The requirements of sections 190.800 to 190.836 shall apply only so long
2 as the revenues generated under section 190.800 are eligible for federal financial
3 participation as provided in sections 190.800 to 190.839 and payments are made under
4 section 190.800. For the purpose of this section, "federal financial participation" means
5 the federal government's share of Missouri's expenditures under the MO HealthNet
6 program. Notwithstanding any other provision of this section to the contrary, in the event
7 federal financial participation is either denied, discontinued, reduced in excess of five
8 percent per year, or no longer available for the revenues generated under section 190.800,
9 the director of the department of social services shall cause disbursement of all moneys
10 held in the ambulance service reimbursement allowance fund to be made to all ambulance
11 services in accordance with rules promulgated by the department of social services, along
12 with a full accounting of such disbursements, within forty-five days of receipt of notice
13 thereof by the department of social services.

190.836. The ambulance service reimbursement allowance tax provided in section
2 190.800 shall not be imposed prior to the effective date of rules promulgated by the
3 department of social services, but in no event prior to October 1, 2009.

190.839. No rules implementing sections 190.800 to 190.839 may be filed with the
2 secretary of state without first being provided to interested parties registered on a list of
3 such parties to be maintained by the director of the department of social services. Rules
4 shall be provided to all interested parties seventy-two hours prior to being filed with the
5 secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010,
6 RSMo, that is created under the authority delegated in sections 190.800 to 190.839 shall
7 become effective only if it complies with and is subject to all of the provisions of chapter
8 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to 190.839 and
9 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
12 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
13 invalid and void.

190.842. Sections 190.800 to 190.842 shall expire on September 30, 2011.

- Section 1. Reimbursement for ambulance services provided under chapter 208,**
- 2 RSMo shall be made based on mileage calculations from the point of pick up to the**
- 3 destination.**

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