

FIRST REGULAR SESSION

HOUSE BILL NO. 646

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHARNHORST.

1395L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 32.057, RSMo, and to enact in lieu thereof one new section relating to confidentiality of department of revenue records, with a penalty provision.

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

Section A. Section 32.057, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 32.057, to read as follows:

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

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.

- 18 (a) To a taxpayer or the taxpayer's duly authorized representative under regulations
19 which the director of revenue may prescribe;
- 20 (b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue
21 laws of this state;
- 22 (c) To the state auditor or the auditor's duly authorized employees as required by
23 subsection 4 of this section;
- 24 (d) To any city officer designated by ordinance of a city within this state to collect a city
25 earnings tax, upon written request of such officer, which request states that the request is made
26 for the purpose of determining or enforcing compliance with such city earnings tax ordinance
27 and provided that such information disclosed shall be limited to that sufficient to identify the
28 taxpayer, and further provided that in no event shall any information be disclosed that will result
29 in the department of revenue being denied such information by the United States or any other
30 state. The city officer requesting the identity of taxpayers filing state returns but not paying city
31 earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax,
32 and the director shall compare the list submitted with the director's records and return to such
33 city official the name and address of any taxpayer who is a resident of such city who has filed
34 a state tax return but who does not appear on the list furnished by such city. The director of
35 revenue may set a fee to reimburse the department for the costs reasonably incurred in providing
36 this information;
- 37 (e) To any employee of any county or other political subdivision imposing a sales tax
38 which is administered by the state department of revenue whose office is authorized by the
39 governing body of the county or other political subdivision to receive any and all records of the
40 state director of revenue pertaining to the administration, collection and enforcement of its sales
41 tax. The request for sales tax records and reports shall include a description of the type of report
42 requested, the media form including electronic transfer, computer tape or disk, or printed form,
43 and the frequency desired. The request shall be made by annual written application and shall be
44 filed with the director of revenue. The director of revenue may set a fee to reimburse the
45 department for the costs reasonably incurred in providing this information. Such city or county
46 or any employee thereof shall be subject to the same standards for confidentiality as required for
47 the department of revenue in using the information contained in the reports;
- 48 (f) To the director of the department of economic development or the director's duly
49 authorized employees in discharging the director's official duties to certify taxpayers eligibility
50 to claim state tax credits as prescribed by statutes;
- 51 (g) To any employee of any political subdivision, such records of the director of revenue
52 pertaining to the administration, collection and enforcement of the tax imposed in chapter 149
53 as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such

54 political subdivision. The request for such records shall be made in writing to the director of
55 revenue, and shall include a description of the type of information requested and the desired
56 frequency. The director of revenue may charge a fee to reimburse the department for costs
57 reasonably incurred in providing such information;

58 **(h) To the public solely relating to the number of cigarettes sold annually by each**
59 **tobacco product manufacturer, including but not limited to such information obtained by**
60 **the department under sections 196.1020 to 196.1035;**

61 (2) The publication by the director of revenue or of the state auditor in the audit reports
62 relating to the department of revenue of:

63 (a) Statistics, statements or explanations so classified as to prevent the identification of
64 any taxpayer or of any particular reports or returns and the items thereof;

65 (b) The names and addresses without any additional information of persons who filed
66 returns and of persons whose tax refund checks have been returned undelivered by the United
67 States Post Office;

68 (3) The director of revenue from permitting the Secretary of the Treasury of the United
69 States or the Secretary's delegates, the proper officer of any state of the United States imposing
70 a tax equivalent to any of the taxes administered by the department of revenue of the state of
71 Missouri or the appropriate representative of the multistate tax commission to inspect any return
72 or report required by the respective tax provision of this state, or may furnish to such officer an
73 abstract of the return or report or supply the officer with information contained in the return or
74 disclosed by the report of any authorized investigation. Such permission, however, shall be
75 granted on condition that the corresponding revenue statute of the United States or of such other
76 state, as the case may be, grants substantially similar privileges to the director of revenue and on
77 further condition that such corresponding statute gives confidential status to the material with
78 which it is concerned;

79 (4) The disclosure of information, returns, reports, or facts shown thereby, by any person
80 on behalf of the director of revenue, in any action or proceeding to which the director is a party
81 or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state
82 when such information is directly involved in the action or proceeding, in either of which events
83 the court may require the production of, and may admit in evidence, so much of such information
84 as is pertinent to the action or proceeding and no more;

85 (5) The disclosure of information, returns, reports, or facts shown thereby, by any person
86 to a state or federal prosecuting official, including, but not limited to, the state and federal
87 attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil
88 investigation, action or proceeding pursuant to the laws of this state or of the United States when

89 such information is pertinent to an investigation, action or proceeding involving the
90 administration of the revenue laws or duties of public office or employment connected therewith;

91 (6) Any school district from obtaining the aggregate amount of the financial institution
92 tax paid pursuant to chapter 148 by financial institutions located partially or exclusively within
93 the school district's boundaries, provided that the school district request such disclosure in
94 writing to the department of revenue;

95 (7) The disclosure of records which identify all companies licensed by this state pursuant
96 to the provisions of subsections 1 and 2 of section 149.035. The director of revenue may charge
97 a fee to reimburse the department for the costs reasonably incurred in providing such records;

98 (8) The disclosure to the commissioner of administration pursuant to section 34.040 of
99 a list of vendors and their affiliates who meet the conditions of section 144.635, but refuse to
100 collect the use tax levied pursuant to chapter 144 on their sales delivered to this state;

101 (9) The disclosure to the public of any information, or facts shown thereby regarding the
102 claiming of a state tax credit by a member of the Missouri general assembly or any statewide
103 elected public official.

104 3. Any person violating any provision of subsection 1 or 2 of this section shall, upon
105 conviction, be guilty of a class D felony.

106 4. The state auditor or the auditor's duly authorized employees who have taken the oath
107 of confidentiality required by section 29.070 shall have the right to inspect any report or return
108 filed with the department of revenue if such inspection is related to and for the purpose of
109 auditing the department of revenue; except that, the state auditor or the auditor's duly authorized
110 employees shall have no greater right of access to, use and publication of information, audit and
111 related activities with respect to income tax information obtained by the department of revenue
112 pursuant to chapter 143 or federal statute than specifically exists pursuant to the laws of the
113 United States and of the income tax laws of the state of Missouri.