

HB 1072 -- STREAMLINED SALES AND USE TAX

SPONSOR: Brattin

This bill requires the Director of the Department of Revenue to enter into the "Streamlined Sales and Use Tax Agreement," with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and types of commerce. The bill specifies that:

(1) When a city annexes or detaches property, the city clerk must forward a certified copy of the ordinance to the department director within 10 days of adoption of the ordinance. The tax rate in the added or abolished territory must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.18, RSMo);

(2) When a political subdivision changes the tax rate or the local sales tax boundary, the change must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.19); and

(3) When specified political subdivisions repeal an existing tax, the repeal must become effective on the first day of the calendar quarter 120 days after notice to sellers (Sections 66.620, 67.1545, 67.1775, 67.2000, and 67.2530).

The bill also:

(1) Requires all revenue generated under the agreement that exceeds the amount that would have been collected without the agreement to be deposited into the State Road Fund. The Department of Revenue is required to track and report the collections generated under this agreement (Section 32.070);

(2) Requires the department to establish the necessary rules to implement the compliance provisions of the agreement. The state must be represented by three delegates including a person appointed by the Governor, a member of the General Assembly appointed by mutual consent of the President Pro Tem of the Senate and the Speaker of the House of Representatives, and the department director or his or her designee. The delegates must make an annual report by January 15 on the status of the agreement (Section 32.070);

(3) Authorizes the department director to retain 1% of the amount of any local sales or use taxes collected by the department for the cost of collection (Sections 32.086 and 67.395 - 67.576);

(4) Requires the department director to perform all functions regarding the administration, collection, enforcement, and operation of all sales taxes. All state and local sales taxes must have the same base which means that exemptions at the state and local level must be identical (Sections 67.1545, 67.2030, and 67.2530);

(5) Defines "delivery charges," "food and food ingredients," "bottled water," "candy," "ancillary services," "lease or rental," and "purchase price" as they apply in the streamlined agreement. The bill also defines "engages in business activities within this state" and "maintains a place of business in this state" as they relate to the collection of taxes and defines "tangible personal property" to exclude specified digital products, digital audio-visual works, digital audio works, and digital books (Section 144.010);

(6) Changes the definition of "durable medical equipment" by removing the requirement that it be for home use and the definition of "prepared food" to exclude food sold that ordinarily requires additional cooking as opposed to just reheating by the consumer prior to consumption (Section 144.010);

(7) Establishes rules to determine the taxability of bundled transactions involving both taxable and nontaxable goods or services (Section 144.022);

(8) Requires uniform sourcing rules to determine what tax rates will apply to certain transactions (Sections 144.043 and 144.111 - 144.112);

(9) Requires the department director to participate in an on-line registration system that will allow sellers to register in this state and other member states. Registration with the central registration system and the collection of sales and use taxes in this state must not be used as a factor in determining whether the seller has nexus with this state for any tax at any time (Section 144.082);

(10) Requires the department director to establish rules and regulations for the remittance of sales and use taxes that allow for payments by all remitters and requires a seller to submit its sales and use tax returns electronically in a simplified format approved and prescribed by the department director (Section 144.084);

(11) Requires a seller to be allowed a deduction from taxable sales for bad debts attributable to taxable sales that have become

uncollectable (Section 144.105);

(12) Requires the department director to provide and maintain an electronic database that describes boundary changes for all taxing jurisdictions and the effective dates of the changes for sales and use tax purposes, a database of all sales and use tax rates for all taxing jurisdictions, and a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The department director must complete a taxability matrix and provide reasonable notice of changes in the taxability of products or services listed in the matrix. A seller or certified service provider can be liable for reliance upon erroneous data provided by the department director on tax rates, boundaries, or taxing jurisdiction assignments (Sections 144.123 - 144.124);

(13) Authorizes an amnesty to certain out-of-state sellers with uncollected or unpaid sales or use tax if the seller was not registered in Missouri in the prior 12-month period before the effective date of this state's participation in the streamlined agreement (Section 144.125); and

(14) Requires the department director to provide a monetary allowance under the automated collection system for sellers and certified service providers for collecting and remitting the state and local sales taxes. Currently, sellers are allowed to keep 2% for collecting and timely remitting the tax. A seller cannot simultaneously receive this monetary allowance and the 2% timely filing deduction (Sections 144.140 and 144.710).

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The bill:

(1) Authorizes a state and local sales and use tax exemption for sales of over-the-counter drugs to individuals with disabilities, and all sales of durable medical equipment, prosthetic devices, mobility enhancing equipment, and drugs dispensed by prescription (Section 144.030.2(19));

(2) Revises the list of items exempted from state and local sales and use tax to add all sales of piped natural or artificial gas or other fuels delivered by the seller for domestic use and to remove all sales of electrical current, natural, artificial or propane gas, wood, coal, or home heating oil. It also repeals the exemption for all sales of water service for domestic use in the City of St. Louis (Sections 144.030.2(24) and 144.032);

(3) Authorizes a state and local sales and use tax exemption for school instructional materials (Section 144.030.2(45));

(4) Changes the purchase limits on the back-to-school sales tax holiday from a per transaction limit to a per item limit and adds instructional materials and school computer supplies (Section 144.049); and

(5) Requires any out-of-state seller who voluntarily collects and remits use tax to file and remit the tax annually unless the amount is equal to \$1,000 or more. The seller must file and remit the use tax for the month when \$1,000 or more is due (Section 144.655.7).

The provisions of the bill regarding the Streamlined Sales and Use Tax Agreement will become effective January 1, 2019.

This bill is similar to HB 667 (2017), HB 2452 (2016) and HB 726 (2015).