

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill
2 No. 291, Page 3, Section 57.280, Line 52, by inserting after said section and line the following:
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4 "144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used motor
5 vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this
6 state which are required to be titled under the laws of the state of Missouri and, except as provided in
7 subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling
8 tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as
9 follows:

10 (1) Upon every retail sale in this state of tangible personal property, excluding motor vehicles,
11 trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to be titled under the laws
12 of the state of Missouri and subject to tax under subdivision (9) of this subsection, a tax equivalent to four
13 percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax
14 equivalent to four percent of the consideration paid or charged, including the fair market value of the property
15 exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

16 (2) A tax equivalent to four percent of the amount paid for admission and seating accommodations,
17 or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events, except
18 amounts paid for any instructional class;

19 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or
20 electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

21 (4) (a) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and
22 long distance telecommunications service to telecommunications subscribers and to others through equipment
23 of telecommunications subscribers for the transmission of messages and conversations and upon the sale,
24 rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made
25 by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to
26 the internet or interactive computer services shall not be considered as amounts paid for telecommunications
27 services;

28 (b) If local and long distance telecommunications services subject to tax under this subdivision are
29 aggregated with and not separately stated from charges for telecommunications service or other services not
30 subject to tax under this subdivision, including, but not limited to, interstate or international
31 telecommunications services, then the charges for nontaxable services may be subject to taxation unless the
32 telecommunications provider can identify by reasonable and verifiable standards such portion of the charges
33 not subject to such tax from its books and records that are kept in the regular course of business, including,
34 but not limited to, financial statement, general ledgers, invoice and billing systems and reports, and reports
35 for regulatory tariffs and other regulatory matters;

36 (c) A telecommunications provider shall notify the director of revenue of its intention to utilize the
37 standards described in paragraph (b) of this subdivision to determine the charges that are subject to sales tax
38 under this subdivision. Such notification shall be in writing and shall meet standardized criteria established
39 by the department regarding the form and format of such notice;

40 (d) The director of revenue may promulgate and enforce reasonable rules and regulations for the

Action Taken _____ Date _____

1 administration and enforcement of the provisions of this subdivision. Any rule or portion of a rule, as that
 2 term is defined in section 536.010 that is created under the authority delegated in this section shall become
 3 effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable,
 4 section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
 5 general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a
 6 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
 7 adopted after August 28, 2019, shall be invalid and void;

8 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for
 9 transmission of messages of telegraph companies;

10 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks
 11 furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist
 12 camp or other place in which rooms, meals or drinks are regularly served to the public. The tax imposed
 13 under this subdivision shall not apply to any automatic mandatory gratuity for a large group imposed by a
 14 restaurant when such gratuity is reported as employee tip income and the restaurant withholds income tax
 15 under section 143.191 on such gratuity;

16 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every
 17 person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as
 18 are licensed by the division of motor carrier and railroad safety of the department of economic development
 19 of Missouri, engaged in the transportation of persons for hire;

20 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible
 21 personal property, provided that if the lessor or renter of any tangible personal property had previously
 22 purchased the property under the conditions of sale at retail or leased or rented the property and the tax was
 23 paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect
 24 the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental
 25 or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be
 26 taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of
 27 boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
 28 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such
 29 places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed
 30 under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers.
 31 Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale
 32 thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

33 (9) A tax equivalent to four percent of the purchase price, as defined in section 144.070, of new and
 34 used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or
 35 waters of this state which are required to be registered under the laws of the state of Missouri. This tax is
 36 imposed on the person titling such property, and shall be paid according to the procedures in section 144.440.

37 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are
 38 subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is
 39 subject to a sales tax."

40 144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake on the
 41 part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the
 42 amount of the overpayment shall be credited on any taxes then due from the person legally obligated to remit
 43 the tax ~~[pursuant to sections 144.010 to 144.525]~~ under chapter 144, and the balance shall be refunded to the
 44 person legally obligated to remit the tax, such person's administrators or executors, as provided for in section
 45 144.200.

46 2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally
 47 collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due
 48 from the person legally obligated to remit the tax ~~[pursuant to sections 144.010 to 144.525]~~ under chapter
 49 144, and the balance, with interest as determined by section 32.065, shall be refunded to the person legally
 50 obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for
 51 refund are filed within ~~three~~ ten years from date of overpayment.

52 3. Every claim for refund must be in writing and signed by the applicant, and must state the specific
 53 grounds upon which the claim is founded. Any refund or any portion thereof which is erroneously made, and

1 any credit or any portion thereof which is erroneously allowed, may be recovered in any action brought by
 2 the director of revenue against the person legally obligated to remit the tax. In the event that a tax has been
 3 illegally imposed against a person legally obligated to remit the tax, the director of revenue shall authorize
 4 the cancellation of the tax upon the director's record.

5 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid sales or use tax
 6 to a vendor or seller may submit a refund claim directly to the director of revenue for such sales or use taxes
 7 paid to such vendor or seller and remitted to the director, provided no sum shall be refunded more than once,
 8 any such claim shall be subject to any offset, defense, or other claim the director otherwise would have
 9 against either the purchaser or vendor or seller, and such claim for refund is accompanied by either:

10 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser allowing the
 11 purchaser to seek the refund on behalf of the vendor or seller. An assignment of rights statement shall
 12 contain the Missouri sales or use tax registration number of the vendor or seller, a list of the transactions
 13 covered by the assignment, the tax periods and location for which the original sale was reported to the
 14 director of revenue by the vendor or seller, and a notarized statement signed by the vendor or seller affirming
 15 that the vendor or seller has not received a refund or credit, will not apply for a refund or credit of the tax
 16 collected on any transactions covered by the assignment, and authorizes the director to amend the seller's
 17 return to reflect the refund; or

18 (2) In the event the vendor or seller fails or refuses to provide an assignment of rights statement
 19 within sixty days from the date of such purchaser's written request to the vendor or seller, or the purchaser is
 20 not able to locate the vendor or seller or the vendor or seller is no longer in business, the purchaser may
 21 provide the director a notarized statement confirming the efforts that have been made to obtain an assignment
 22 of rights from the vendor or seller. Such statement shall contain a list of the transactions covered by the
 23 assignment, the tax periods and location for which the original sale was reported to the director of revenue by
 24 the vendor or seller.
 25

26 The director shall not require such vendor, seller, or purchaser to submit amended returns for refund claims
 27 submitted under the provisions of this subsection. Notwithstanding the provisions of section 32.057, if the
 28 seller is registered with the director for collection and remittance of sales tax, the director shall notify the
 29 seller at the seller's last known address of the claim for refund. If the seller objects to the refund within thirty
 30 days of the date of the notice, the director shall not pay the refund. If the seller agrees that the refund is
 31 warranted or fails to respond within thirty days, the director may issue the refund and amend the seller's
 32 return to reflect the refund. For purposes of section 32.069, the refund claim shall not be considered to have
 33 been filed until the seller agrees that the refund is warranted or thirty days after the date the director notified
 34 the seller and the seller failed to respond.

35 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim on behalf of
 36 a purchaser and such refund claim is denied by the director, notice of such denial and the reason for the denial
 37 shall be sent by the director to the vendor and each purchaser whose name and address is submitted with the
 38 refund claim form filed by the vendor. A purchaser shall be entitled to appeal the denial of the refund claim
 39 within sixty days of the date such notice of denial is mailed by the director as provided in section 144.261.
 40 The provisions of this subsection shall apply to all refund claims filed after August 28, 2012. The provisions
 41 of this subsection allowing a purchaser to appeal the director's decision to deny a refund claim shall also
 42 apply to any refund claim denied by the director on or after January 1, 2007, if an appeal of the denial of the
 43 refund claim is filed by the purchaser no later than September 28, 2012, and if such claim is based solely on
 44 the issue of the exemption of the electronic transmission or delivery of computer software.

45 6. Notwithstanding the provisions of this section, the director of revenue shall authorize direct-pay
 46 agreements to purchasers which have annual purchases in excess of seven hundred fifty thousand dollars
 47 pursuant to rules and regulations adopted by the director of revenue. For the purposes of such direct-pay
 48 agreements, the taxes authorized ~~[pursuant to]~~ under chapters 66, 67, 70, 92, 94, 162, 190, 238, 321, and 644
 49 shall be remitted based upon the location of the place of business of the purchaser.

50 7. Special rules applicable to error corrections requested by customers of mobile telecommunications
 51 service are as follows:

52 (1) For purposes of this subsection, the terms "customer", "home service provider", "place of
 53 primary use", "electronic database", and "enhanced zip code" shall have the same meanings as defined in the

1 Mobile Telecommunications Sourcing Act incorporated by reference in section 144.013;

2 (2) Notwithstanding the provisions of this section, if a customer of mobile telecommunications
3 services believes that the amount of tax, the assignment of place of primary use or the taxing jurisdiction
4 included on a billing is erroneous, the customer shall notify the home service provider, in writing, within
5 three years from the date of the billing statement. The customer shall include in such written notification the
6 street address for the customer's place of primary use, the account name and number for which the customer
7 seeks a correction of the tax assignment, a description of the error asserted by the customer and any other
8 information the home service provider reasonably requires to process the request;

9 (3) Within sixty days of receiving the customer's notice, the home service provider shall review its
10 records and the electronic database or enhanced zip code to determine the customer's correct taxing
11 jurisdiction. If the home service provider determines that the review shows that the amount of tax,
12 assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct
13 the error and, at its election, either refund or credit the amount of tax erroneously collected to the customer
14 for a period of up to three years from the last day of the home service provider's sixty-day review period. If
15 the home service provider determines that the review shows that the amount of tax, the assignment of place of
16 primary use or the taxing jurisdiction is correct, the home service provider shall provide a written explanation
17 of its determination to the customer.

18 8. For all refund claims submitted to the department of revenue on or after September 1, 2003,
19 notwithstanding any provision of this section to the contrary, if a person legally obligated to remit the tax
20 levied [~~pursuant to sections 144.010 to 144.525~~] under chapter 144 has received a refund of such taxes for a
21 specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period
22 beginning on or after the date the original refund check issued to such person, no refund shall be allowed.
23 This subsection shall not apply and a refund shall be allowed if the refund claim is filed by a purchaser under
24 the provisions of subsection 4 of this section, the refund claim is for use tax remitted by the purchaser, or an
25 additional refund claim is filed by a person legally obligated to remit the tax due to any of the following:

26 (1) Receipt of additional information or an exemption certificate from the purchaser of the item at
27 issue;

28 (2) A decision of a court of competent jurisdiction or the administrative hearing commission; or

29 (3) Changes in regulations or policy by the department of revenue.

30 9. Notwithstanding any provision of law to the contrary, the director of revenue shall respond to a
31 request for a binding letter ruling filed in accordance with section 536.021 within sixty days of receipt of such
32 request. If the director of revenue fails to respond to such letter ruling request within sixty days of receipt by
33 the director, the director of revenue shall be barred from pursuing collection of any assessment of sales or use
34 tax with respect to the issue which is the subject of the letter ruling request. For purposes of this subsection,
35 the term "letter ruling" means a written interpretation of law by the director to a specific set of facts provided
36 by a specific taxpayer or his or her agent.

37 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly computed, such
38 sum shall be credited on any taxes then due from the person legally obligated to remit the tax [~~pursuant to~~
39 ~~sections 144.010 to 144.510~~] under chapter 144 against any deficiency or tax due discovered through an audit
40 of the person by the department of revenue through adjustment during the same tax filing period for which
41 the audit applied."; and

42
43 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.