

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 363, In
2 the Title, Line 4, by inserting after the word "RSMo," the following:

3
4 "and section 190.462 as truly agreed to and finally passed by senate bill no. 291, one
5 hundredth general assembly, first regular session,"; and

6
7 Further amend said bill and page, In the Enacting Clause, Line 3, by inserting after the word
8 "RSMo," the following:

9
10 "and section 190.462 as truly agreed to and finally passed by senate bill no. 291, one
11 hundredth general assembly, first regular session,"; and

12
13 Further amend said bill, Page 15, Section 190.092, Line 51, by inserting after said section and line
14 the following:

15
16 "190.462. 1. As used in this section, the following terms mean:

17 (1) "All retail sales subject to sales tax", tangible personal property and services subject to
18 the tax imposed by sections 190.292 or 190.335;

19 (2) "General retailer", a person making a sale at retail as defined in section 144.010;

20 (3) "Taxpayer", a person who pays the tax imposed under sections 190.292 or 190.335.

21 2. (1) If a court of competent jurisdiction issues a declaratory ruling prior to the effective
22 date of this section that the taxes imposed under sections 190.292 or 190.335 are pre-empted by the
23 provisions of subsection 5 of section 190.460 on all retail sales subject to sales tax in a taxing
24 jurisdiction that did not opt out of the collection of the prepaid wireless emergency telephone
25 service charge:

26 (a) A seller or general retailer who collected and remitted the tax imposed under sections
27 190.292 or 190.335 on all retail sales subject to sales tax in a taxing jurisdiction that did not opt out
28 of such tax under the provisions of subsection 6 of section 190.460, shall not be required to refund
29 such taxes to taxpayers;

30 (b) This subsection applies to taxes collected between January 1, 2019, and the first day of
31 the calendar month following a declaratory ruling by a court of competent jurisdiction that the taxes
32 imposed under sections 190.292 or 190.335 are pre-empted by the provisions of subsection 5 of
33 section 190.460 on all retail sales subject to sales tax in taxing jurisdictions that did not opt out of
34 the collection of the prepaid wireless emergency telephone service charge.

35 (2) If this section goes into effect prior to a court of competent jurisdiction issuing a
36 declaratory ruling, then the provisions of paragraphs (a) and (b) of subdivision (1) of this subsection

Action Taken _____ Date _____

shall apply from January 1, 2019, until the effective date of this section.

3. (1) If a court of competent jurisdiction issues a declaratory ruling prior to the effective date of this section that the taxes imposed under sections 190.292 or 190.335 are pre-empted by the provisions of subsection 5 of section 190.460 only on sales of prepaid wireless telecommunications services in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless emergency telephone service charge:

(a) A seller or other retailer who did not collect the tax imposed under sections 190.292 or 190.335 on the retail sale of wireless telecommunications service and wireless devices associated therewith shall not be liable for any assessment or incur any other liability on such uncollected taxes;

(b) This subsection applies to assessments for the period beginning January 1, 2019, and ending on the first day of the calendar month following a declaratory ruling by a court of competent jurisdiction that the taxes imposed by under sections 190.292 or 190.335 are pre-empted by the provisions of subsection 5 of section 190.460 only on sales of prepaid wireless telecommunications services in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless emergency telephone service charge.

(2) If this section takes effect prior to a court of competent jurisdiction issuing a declaratory ruling, then the provisions of paragraphs (a) and (b) of subdivision (1) of this subsection shall apply from January 1, 2019, until the effective date of this section.

4. This section shall expire on January 1, 2023."; and

Further amend said bill, Page 83, Section 640.145, Line 11, by inserting after said section and line the following:

"[190.462. 1. As used in this section, the following terms mean:

(1) "All retail sales subject to sales tax", tangible personal property and services subject to the tax imposed by sections 190.292 or 190.335;

(2) "General retailer", a person making a sale at retail as defined in section 144.010;

(3) "Taxpayer", a person who pays the tax imposed under sections 190.292 or 190.335.

2. (1) If a court of competent jurisdiction issues a declaratory ruling prior to the effective date of this section that the taxes imposed under sections 190.292 or 190.335 are pre-empted by the provisions of subsection 5 of section 190.460 on all retail sales subject to sales tax in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless emergency telephone service charge:

(a) A seller or general retailer who collected and remitted the tax imposed under sections 190.292 or 190.335 on all retail sales subject to sales tax in a taxing jurisdiction that did not opt out of such tax under the provisions of subsection 6 of section 190.460, shall not be required to refund such taxes to taxpayers;

(b) All requests for refunds by taxpayers shall be made directly to the taxing jurisdiction. The department of revenue shall develop procedures and forms for taxpayers requesting refunds from taxing jurisdictions;

(c) This subsection applies to taxes collected between January 1, 2019, and the first day of the calendar month following a declaratory ruling by a court of competent jurisdiction that the taxes imposed under sections 190.292 or 190.335 are pre-empted by the provisions of subsection 5 of section 190.460 on all retail sales subject to sales tax in taxing jurisdictions that did not opt out of the collection of the prepaid wireless emergency telephone service charge.

(2) If this section goes into effect prior to a court of competent jurisdiction issuing a declaratory ruling, then the provisions of paragraphs (a) and (b) of subdivision (1) of this subsection shall apply from January 1, 2019, until the effective date of this section.

1 ~~3. (1) If a court of competent jurisdiction issues a declaratory ruling prior to the effective~~
2 ~~date of this section that the taxes imposed under sections 190.292 or 190.335 are pre-empted by the~~
3 ~~provisions of subsection 5 of section 190.460 only on sales of prepaid wireless telecommunications~~
4 ~~services in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless~~
5 ~~emergency telephone service charge:~~

6 ~~(a) A seller or other retailer who did not collect the tax imposed under sections 190.292 or~~
7 ~~190.335 on the retail sale of wireless telecommunications service and wireless devices associated~~
8 ~~therewith shall not be liable for any assessment or incur any other liability on such uncollected~~
9 ~~taxes;~~

10 ~~(b) This subsection applies to assessments for the period beginning January 1, 2019, and~~
11 ~~ending on the first day of the calendar month following a declaratory ruling by a court of competent~~
12 ~~jurisdiction that the taxes imposed by under sections 190.292 or 190.335 are pre-empted by the~~
13 ~~provisions of subsection 5 of section 190.460 only on sales of prepaid wireless telecommunications~~
14 ~~services in a taxing jurisdiction that did not opt out of the collection of the prepaid wireless~~
15 ~~emergency telephone service charge.~~

16 ~~(2) If this section takes effect prior to a court of competent jurisdiction issuing a declaratory~~
17 ~~ruling, then the provisions of paragraphs (a) and (b) of subdivision (1) of this subsection shall apply~~
18 ~~from January 1, 2019, until the effective date of this section.~~

19 ~~4. This section shall expire on January 1, 2023.]"~~; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.