

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1227, Page 1, Section A, Line 2, by
2 inserting after all of said section and line the following:

3
4 "32.310. 1. The department of revenue shall create and maintain a mapping feature on its
5 official public website that displays sales and use tax information of political subdivisions of this
6 state that have taxing authority, including the current tax rate for each sales and use tax imposed and
7 collected. Such display shall have the option to showcase the borders and jurisdiction of the
8 following political subdivisions on a map of the state to the extent that such political subdivisions
9 collect sales and use tax:

- 10 (1) Ambulance districts;
11 (2) Community improvement districts;
12 (3) Fire protection districts;
13 (4) Levee districts;
14 (5) Library districts;
15 (6) Neighborhood improvement districts;
16 (7) Port authority districts;
17 (8) Tax increment financing districts;
18 (9) Transportation development districts;
19 (10) School districts; or
20 (11) Any other political subdivision that imposes a sales or use tax within its borders and
21 jurisdiction.

22 2. The mapping feature shall also have the option to superimpose state house of
23 representative districts and state senate districts over the political subdivisions.

24 3. A political subdivision collecting sales or use tax listed in subsection 1 of this section
25 shall provide to the department of revenue mapping and geographic data pertaining to the political
26 subdivision's borders and jurisdictions. The political subdivision shall certify the accuracy of the
27 data by affidavit and shall provide the data in a format specified by the department of revenue. Such
28 data shall be sent to the department of revenue by April 1, 2019, and shall be updated and sent to the
29 department if a change in the political subdivision's borders or jurisdiction occurs thereafter.

30 4. The department of revenue may contract with another entity to build and maintain the
31 mapping feature.

Action Taken _____ Date _____

1 5. By July 1, 2019, the department shall implement the mapping feature using the data
2 provided to it under subsection 3 of this section."; and

3
4 Further amend said bill, Page 4, Section 144.020, Line 88, by inserting after all of said section and
5 line the following:

6
7 "144.605. The following words and phrases as used in sections 144.600 to 144.745 mean
8 and include:

9 (1) "Calendar quarter", the period of three consecutive calendar months ending on March
10 thirty-first, June thirtieth, September thirtieth or December thirty-first;

11 (2) "Engages in business activities within this state" includes:

12 (a) Maintaining or having a franchisee or licensee operating under the seller's trade name in
13 this state if the franchisee or licensee is required to collect sales tax pursuant to sections 144.010 to
14 144.525;

15 (b) Soliciting sales or taking orders by sales agents or traveling representatives;

16 (c) A vendor is presumed to engage in business activities within this state if any person,
17 other than a common carrier acting in its capacity as such, that has substantial nexus with this state:

18 a. Sells a similar line of products as the vendor and does so under the same or a similar
19 business name;

20 b. Maintains an office, distribution facility, warehouse, or storage place, or similar place of
21 business in the state to facilitate the delivery of property or services sold by the vendor to the
22 vendor's customers;

23 c. Delivers, installs, assembles, or performs maintenance services for the vendor's customers
24 within the state;

25 d. Facilitates the vendor's delivery of property to customers in the state by allowing the
26 vendor's customers to pick up property sold by the vendor at an office, distribution facility,
27 warehouse, storage place, or similar place of business maintained by the person in the state; or

28 e. Conducts any other activities in the state that are significantly associated with the
29 vendor's ability to establish and maintain a market in the state for the sales;

30 (d) The presumption in paragraph (c) of this subdivision may be rebutted by demonstrating
31 that the person's activities in the state are not significantly associated with the vendor's ability to
32 establish or maintain a market in this state for the vendor's sales;

33 (e) Notwithstanding paragraph (c) of this subdivision, a vendor shall be presumed to engage
34 in business activities within this state if the vendor enters into an agreement with one or more
35 residents of this state under which the resident, for a commission or other consideration, directly or
36 indirectly refers potential customers, whether by a link on an internet website, an in-person oral
37 presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross receipts from sales
38 by the vendor to customers in the state who are referred to the vendor by all residents with this type
39 of an agreement with the vendor is in excess of ten thousand dollars during the preceding twelve
40 months;

41 (f) The presumption in paragraph (e) of this subdivision may be rebutted by submitting

1 proof that the residents with whom the vendor has an agreement did not engage in any activity
2 within the state that was significantly associated with the vendor's ability to establish or maintain the
3 vendor's market in the state during the preceding twelve months. Such proof may consist of sworn
4 written statements from all of the residents with whom the vendor has an agreement stating that they
5 did not engage in any solicitation in the state on behalf of the vendor during the preceding year
6 provided that such statements were provided and obtained in good faith;

7 (g) a. Beginning October 1, 2019, a vendor engages in business activities within this state if
8 the cumulative gross receipts from the vendor's sales of tangible personal property to purchasers for
9 the purpose of storage, use, or consumption in this state are one hundred thousand dollars or more
10 during any twelve-month period, as determined under subparagraph b of this paragraph;

11 b. Following the close of each calendar quarter, a vendor shall determine whether the vendor
12 met the requirements provided under subparagraph a of this paragraph during the twelve-month
13 period ending on the last day of the preceding calendar quarter. If the vendor met such requirements
14 for any such twelve-month period, such vendor shall collect and remit the tax as provided under
15 section 144.635 for a period of not less than twelve months, beginning not more than three months
16 following the close of the preceding calendar quarter, and shall continue to collect and remit the tax
17 for as long as the vendor is engaged in business activities in this state, as provided under this
18 paragraph, or otherwise maintains a substantial nexus with this state;

19 (3) "Maintains a place of business in this state" includes maintaining, occupying, or using,
20 permanently or temporarily, directly or indirectly, by whatever name called, an office, place of
21 distribution, sales or sample room or place, warehouse or storage place, or other place of business in
22 this state, whether owned or operated by the vendor or by any other person other than a common
23 carrier acting in its capacity as such;

24 (4) "Person", any individual, firm, copartnership, joint venture, association, corporation,
25 municipal or private, and whether organized for profit or not, state, county, political subdivision,
26 state department, commission, board, bureau or agency, except the state transportation department,
27 estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or
28 any other group or combination acting as a unit, and the plural as well as the singular number;

29 (5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property,
30 through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

31 (6) "Purchaser", any person who is the recipient for a valuable consideration of any sale of
32 tangible personal property acquired for use, storage or consumption in this state;

33 (7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal
34 property, or the right to use, store or consume the same, for a consideration paid or to be paid, and
35 any transaction whether called leases, rentals, bailments, loans, conditional sales or otherwise, and
36 notwithstanding that the title or possession of the property or both is retained for security. For the
37 purpose of this law the place of delivery of the property to the purchaser, user, storer or consumer is
38 deemed to be the place of sale, whether the delivery be by the vendor or by common carriers,
39 private contractors, mails, express, agents, salesmen, solicitors, hawkers, representatives,
40 consignors, peddlers, canvassers or otherwise;

41 (8) "Sales price", the consideration including the charges for services, except charges

1 incident to the extension of credit, paid or given, or contracted to be paid or given, by the purchaser
2 to the vendor for the tangible personal property, including any services that are a part of the sale,
3 valued in money, whether paid in money or otherwise, and any amount for which credit is given to
4 the purchaser by the vendor, without any deduction therefrom on account of the cost of the property
5 sold, the cost of materials used, labor or service cost, losses or any other expenses whatsoever,
6 except that cash discounts allowed and taken on sales shall not be included and "sales price" shall
7 not include the amount charged for property returned by customers upon rescission of the contract
8 of sales when the entire amount charged therefor is refunded either in cash or credit or the amount
9 charged for labor or services rendered in installing or applying the property sold, the use, storage or
10 consumption of which is taxable pursuant to sections 144.600 to 144.745. The sales price shall not
11 include usual and customary delivery charges that are separately stated. In determining the amount
12 of tax due pursuant to sections 144.600 to 144.745, any charge incident to the extension of credit
13 shall be specifically exempted;

14 (9) "Selling agent", every person acting as a representative of a principal, when such
15 principal is not registered with the director of revenue of the state of Missouri for the collection of
16 the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and who
17 receives compensation by reason of the sale of tangible personal property of the principal, if such
18 property is to be stored, used, or consumed in this state;

19 (10) "Storage", any keeping or retention in this state of tangible personal property purchased
20 from a vendor, except property for sale or property that is temporarily kept or retained in this state
21 for subsequent use outside the state;

22 (11) "Tangible personal property", all items subject to the Missouri sales tax as provided in
23 subdivisions (1) and (3) of subsection 1 of section 144.020;

24 (12) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections
25 144.600 to 144.745;

26 (13) "Use", the exercise of any right or power over tangible personal property incident to the
27 ownership or control of that property, except that it does not include the temporary storage of
28 property in this state for subsequent use outside the state, or the sale of the property in the regular
29 course of business;

30 (14) "Vendor", every person engaged in making sales of tangible personal property by mail
31 order, by advertising, by agent or peddling tangible personal property, soliciting or taking orders for
32 sales of tangible personal property, for storage, use or consumption in this state, all salesmen,
33 solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of the dealers,
34 distributors, consignors, supervisors, principals or employers under whom they operate or from
35 whom they obtain the tangible personal property sold by them, and every person who maintains a
36 place of business in this state, maintains a stock of goods in this state, or engages in business
37 activities within this state and every person who engages in this state in the business of acting as a
38 selling agent for persons not otherwise vendors as defined in this subdivision. Irrespective of
39 whether they are making sales on their own behalf or on behalf of the dealers, distributors,
40 consignors, supervisors, principals or employers, they must be regarded as vendors and the dealers,
41 distributors, consignors, supervisors, principals or employers must be regarded as vendors for the

1 purposes of sections 144.600 to 144.745.

2 144.637. 1. The director of revenue shall provide and maintain a database that describes
3 boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of
4 vendors collecting the tax imposed under sections 144.600 to 144.745.

5 2. For the identification of counties and cities, codes corresponding to the rates shall be
6 provided according to Federal Information Processing Standards (FIPS) as developed by the
7 National Institute of Standards and Technology. For the identification of all other jurisdictions,
8 codes corresponding to the rates shall be in a format determined by the director.

9 3. The director shall provide and maintain a database that assigns each five- and nine-digit
10 zip code to the proper rates and taxing jurisdictions. The lowest combined tax rate imposed in the
11 zip code area shall apply if the area includes more than one tax rate in any level of taxing
12 jurisdiction. If a nine-digit zip code designation is not available for a street address, or if a vendor is
13 unable to determine the nine-digit zip code designation applicable to a purchase after exercising due
14 diligence to determine the designation, the vendor may apply the rate for the five-digit zip code
15 area. For purposes of this section, there shall be a rebuttable presumption that a vendor has
16 exercised due diligence if the vendor has attempted to determine the nine-digit zip code designation
17 by utilizing software approved by the director that makes this designation from the street address
18 and the five-digit zip code applicable to a purchase.

19 4. The director may provide address-based boundary database records for assigning taxing
20 jurisdictions and associated rates which shall be in addition to the requirements of subsection 3 of
21 this section. The database records shall be in the same approved format as the database records
22 required under subsection 3 of this section and shall meet the requirements developed pursuant to
23 the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director
24 develops address-based assignment database records, vendors shall be required to use such database.
25 A vendor shall use such database records in place of the five- and nine-digit zip code database
26 records provided for in subsection 3 of this section. If a vendor is unable to determine the
27 applicable rate and jurisdiction using an address-based database record after exercising due
28 diligence, the vendor may apply the nine-digit zip code designation applicable to a purchase. If a
29 nine-digit zip code designation is not available for a street address or if a vendor is unable to
30 determine the nine-digit zip code designation applicable to a purchase after exercising due diligence
31 to determine the designation, the vendor may apply the rate for the five-digit zip code area. For the
32 purposes of this section, there shall be a rebuttable presumption that a vendor has exercised due
33 diligence if the vendor has attempted to determine the tax rate and jurisdiction by utilizing software
34 approved by the director and makes the assignment from the address and zip code information
35 applicable to the purchase. If the director has met the requirements of subsection 3 of this section,
36 the director may also elect to certify address-based databases provided by third parties for assigning
37 tax rates and jurisdictions. The databases shall be in the same approved format as the database
38 records under this section and meet the requirements developed pursuant to the federal Mobile
39 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director certifies an address-
40 based database provided by a third party, a vendor may use such database in place of the database
41 provided for in this subsection.

1 5. The electronic databases provided for in subsections 1, 2, 3, and 4 of this section shall be
2 in downloadable format as determined by the director. The databases may be directly provided by
3 the director or provided by a third party as designated by the director. The databases shall be
4 provided at no cost to the user of the database. The provisions of subsections 3 and 4 of this section
5 shall not apply if the purchased product is received by the purchaser at the business location of the
6 vendor.

7 6. No vendor shall be liable for reliance upon erroneous data provided by the director on tax
8 rates, boundaries, or taxing jurisdiction assignments.

9 144.752. 1. For the purposes of this section, the following terms shall mean:

10 (1) "Marketplace facilitator", a person that contracts with sellers to facilitate for
11 consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's
12 products through an electronic marketplace operated by a person, and engages:

13 (a) Either directly or indirectly, through one or more affiliated persons in any of the
14 following:

15 a. Transmitting or otherwise communicating the offer or acceptance between the purchaser
16 and marketplace seller;

17 b. Owning or operating the infrastructure, electronic or physical, or technology that brings
18 purchasers and marketplace sellers together;

19 c. Providing a virtual currency that purchasers are allowed or required to use to purchase
20 products from the marketplace seller; or

21 d. Software development or research and development activities related to any of the
22 activities described in paragraph (b) of this subdivision if such activities are directly related to an
23 electronic marketplace operated by a person or an affiliated person; and

24 (b) In any of the following activities with respect to the marketplace seller's products:

25 a. Payment processing services;

26 b. Fulfillment or storage services;

27 c. Listing products for sale;

28 d. Setting prices;

29 e. Branding sales as those of the marketplace facilitator;

30 f. Order taking;

31 g. Advertising or promotion; or

32 h. Providing customer service or accepting or assisting with returns or exchanges;

33 A marketplace facilitator is a vendor as defined in section 144.605 and shall comply with the
34 provisions of sections 144.600 to 144.753;

35 (2) "Marketplace seller", a seller that makes sales through any electronic marketplace
36 operated by a marketplace facilitator;

37 (3) "Person", any individual, firm, copartnership, joint venture, association, corporation,
38 municipal or private, whether organized for profit or not, state, county, political subdivision, state
39 department, commission, board, bureau or agency, except the department of transportation, estate,
40 trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any
41 other group or combination acting as a unit;

1 (4) "Purchaser", any person who is the recipient for a valuable consideration of any sale of
2 tangible personal property acquired for use, storage, or consumption in this state;

3 (5) "Retail sale", the same meaning as defined under sections 144.010 and 144.011,
4 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors
5 required to be titled under the laws of the state and subject to tax under subdivision (9) of subsection
6 1 of section 144.020;

7 (6) "Seller", a person selling or furnishing tangible personal property or rendering services
8 on the receipts from which a tax is imposed under section 144.020.

9 2. By no later than January 1, 2020, marketplace facilitators that reach the threshold
10 provided under paragraph (g) of subdivision (2) of section 144.605 shall register with the
11 department to collect and remit use tax on sales made through the marketplace facilitator's
12 marketplace by or on behalf of a marketplace seller that are delivered into the state, whether by the
13 marketplace facilitator or another person. Such retail sales shall include those made directly by the
14 marketplace facilitator and shall also include those retail sales made by marketplace sellers through
15 the marketplace facilitator's marketplace. The collection and reporting requirements of this
16 subsection shall not apply to retail sales other than those made through a marketplace facilitator's
17 marketplace.

18 3. Marketplace facilitators that are required to collect use tax under this section shall report
19 and remit the tax in accordance with the provisions of this chapter and shall maintain records of all
20 sales delivered to a location in the state, including copies of invoices showing the purchaser,
21 address, purchase amount, and use tax collected. Such records shall be made available for review
22 and inspection upon request by the department.

23 4. Marketplace facilitators who properly collect and remit to the department in a timely
24 manner use tax on sales in accordance with the provisions of this section by or on behalf of
25 marketplace sellers shall be eligible for any discount provided under this chapter.

26 5. A marketplace facilitator shall provide the purchaser with a statement or invoice showing
27 that the use tax was collected and shall be remitted on the purchaser's behalf.

28 6. Any taxpayer who remits use tax under this section shall be entitled to refunds or credits
29 to the same extent and in the same manner provided for in section 144.190 for taxes collected and
30 remitted under this section.

31 7. Marketplace facilitators shall be subject to the penalty provisions, procedures, and
32 reporting requirements provided under the provisions of this chapter.

33 8. For the purposes of this section, a marketplace facilitator shall not include a third party
34 financial institution appointed by a merchant or a marketplace facilitator to handle various forms of
35 payment transactions, such as processing credit cards and debit cards, and whose sole activity with
36 respect to marketplace sales is to facilitate the payment transactions between two parties.

37 144.757. 1. Any county or municipality, except municipalities within a county having a
38 charter form of government with a population in excess of nine hundred thousand, may, by a
39 majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined
40 in section 32.085 at a rate equal to the rate of the local sales tax in effect in such county or
41 municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to

144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890 for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the _____ (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, [currently _____ (insert percent),] provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) (a) The ballot of submission in a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of enhancing county and municipal public safety, parks, and job creation and enhancing local government services, shall the county be authorized to collect a local use tax equal to the total of the existing county sales tax rate [of (insert tax rate)], provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? Fifty percent of the revenue shall be used by the county throughout the county for improving and enhancing public safety, park improvements, and job creation, and fifty percent shall be used for enhancing local government services. The county shall be required to make available to the public an audited comprehensive financial report detailing the management and use of the countywide portion of the funds each year.

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question

1 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 2 imposing the same rate on all sellers.

3 ☐ YES ☐ NO

4 If you are in favor of the question, place an "X" in the box opposite "YES". If you
 5 are opposed to the question, place an "X" in the box opposite "NO".

6 (b) The ballot of submission in a municipality within a county having a charter form of
 7 government with a population in excess of nine hundred thousand shall contain substantially the
 8 following language:

9 Shall the municipality be authorized to impose a local use tax at the same rate as the
 10 local sales tax by a vote of the governing body, provided that if any local sales tax is
 11 repealed, reduced or raised by voter approval, the respective local use tax shall also
 12 be repealed, reduced or raised by the same action? [A use tax return shall not be
 13 required to be filed by persons whose purchases from out-of-state vendors do not in
 14 total exceed two thousand dollars in any calendar year.] Approval of this question
 15 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 16 imposing the same rate on all sellers.

17 ☐ YES ☐ NO

18 If you are in favor of the question, place an "X" in the box opposite "YES". If you
 19 are opposed to the question, place an "X" in the box opposite "NO".

20 (3) The ballot of submission in any city not within a county shall contain substantially the
 21 following language:

22 Shall the _____ (city name) impose a local use tax at the same rate as the local sales
 23 tax, [currently at a rate of _____ (insert percent)] which includes the capital
 24 improvements sales tax and the transportation tax, provided that if any local sales tax
 25 is repealed, reduced or raised by voter approval, the respective local use tax shall also
 26 be repealed, reduced or raised by the same action? [A use tax return shall not be
 27 required to be filed by persons whose purchases from out-of-state vendors do not in
 28 total exceed two thousand dollars in any calendar year.] Approval of this question
 29 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 30 imposing the same rate on all sellers.

31 ☐ YES ☐ NO

32 If you are in favor of the question, place an "X" in the box opposite "YES". If you
 33 are opposed to the question, place an "X" in the box opposite "NO".

34 (4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast
 35 on the proposal by the qualified voters voting thereon are in favor of the proposal, then the
 36 ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the
 37 director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If
 38 any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the
 39 proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or
 40 order and any amendments thereto shall be in effect on the first day of the calendar quarter which
 41 begins at least forty-five days after the director of revenue receives notice of adoption of the local

1 use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal,
2 then the governing body of the county or municipality shall have no power to impose the local use
3 tax as herein authorized unless and until the governing body of the county or municipality shall
4 again have submitted another proposal to authorize the governing body of the county or
5 municipality to impose the local use tax and such proposal is approved by a majority of the qualified
6 voters voting thereon.

7 3. The local use tax may be imposed at the same rate as the local sales tax then currently in
8 effect in the county or municipality upon all transactions which are subject to the taxes imposed
9 pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax;
10 provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by
11 voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the
12 same action repealing, reducing or raising the local sales tax.

13 4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or described
14 as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on
15 certain intrabusiness transactions. Such a description shall not change the classification, form or
16 subject of the use tax or the manner in which it is collected."; and

17
18 Further amend said bill by amending the title, enacting clause, and intersectional references
19 accordingly.