

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0267-01  
Bill No.: HB 736  
Subject: Taxation and Revenue - General; Taxation and Revenue - Sales and Use  
Type: Original  
Date: February 22, 2019

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Bill Summary: This proposal relates to the sourcing provisions of sales and use tax.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
General Revenue	Unknown greater than \$100,000 to (Unknown greater than \$100,000)	Unknown greater than \$100,000 to (Unknown greater than \$100,000)	Unknown greater than \$100,000 to (Unknown greater than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
School District Trust (0688)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Conservation Commission (0609)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Parks, Soils & Water (0613 & 0614)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this proposal will not directly impact Total State Revenue and will not directly impact the calculation under Article X, Section 18(e).

Section 144.111 states that all sales within Missouri shall be sourced from the location the seller ships the order or the location where the seller receives the order. B&P notes that while this provision will not impact state revenues, this could have a significant impact on local revenues. For example, currently if a seller is located in St. Louis County while a purchaser is located in Boone County, sales tax would be collected for Boone County and any other relevant taxing districts within Boone County. However, under this proposal the sales tax would instead be collected for St. Louis County and any other relevant local taxing jurisdictions within St. Louis County. This would decrease sales tax collections in Boone County while increasing sales tax collections in St. Louis County.

Section 144.112.1 would allow Department of Revenue to enter into reciprocal taxing agreements with jurisdictions outside the state. Section 144.112.1(1) states that all purchases made by Missouri residents from out-of-state sellers shall be sourced to the location where the seller shipped the product or where the seller received the order. The section further states that Missouri shall not have any state or local sales or use tax claim on such out-of-state sales. Section 144.112.1(2) states that all purchases made by out-of-state residents from a Missouri businesses shall be sourced to the location where the seller shipped the product or where the seller received the order. The section further states that no other state shall have state or local sales or use tax claims on such retail sales.

**B&P** notes that while the sourcing provisions will not have a direct impact to state and local revenues, if any agreements are reached there is likely to be a very significant negative impact to state and local tax collections for two main reasons. First, these provisions would end state and local use taxes. Second, these provisions could encourage businesses to move shipping and order receiving locations outside of Missouri and into states with lower or no sales tax levies.

Officials at the **Department of Revenue (DOR)** assume that, upon entering into an agreement as described in Subsection 1 of this section, the Department of Revenue shall publish the terms of the agreement and provide official guidance on how the agreement affects prospective purchasers and sellers within the State of Missouri. The Department is unable to determine the number of states that Missouri would enter into agreements with. This proposed legislation will cause the state and local use taxes to end for all purchases where the seller is out-of-state and that state is in

ASSUMPTION (continued)

an agreement with Missouri, and may encourage businesses to move out of state to avoid having to pay state and local sales tax within Missouri.

The Department is unable to determine the amount of Missourians who placed orders, or the dollar amount spent by Missourians on orders shipped, by a company not in Missouri. Due to the Department being unable to assess the impact the following are different scenarios where Missouri collects more taxes or loses tax revenues.

Scenario #1

Missouri Buyer #1 purchases a product online from Kansas Business #1. Under this proposed legislation, if there is an agreement with the State of Kansas, the Missouri Buyer #1 would have to pay Kansas Sales Tax. Missouri Loses (State & Local)

Scenario #2

Kansas Buyer #1 purchases a product online from Missouri Business #1. Under this proposed legislation, if there is an agreement with the State of Kansas, the Kansas Buyer #1 would have to pay Missouri Sales Tax. Missouri Wins (State & Local)

Scenario #3

Kansas City Buyer #1 purchases a product online from St. Louis Buyer #1. Under this proposed legislation, the Kansas City Buyer #1 would pay sales tax at the St. Louis Buyer's rate and collected for St. Louis. This would cause a loss for Kansas City and a gain for St. Louis.  
Redistribution of Local Tax

**Oversight** notes that §144.111 requires that retail sales are sourced to the location from which the products are shipped rather than where the buyer is located under current law. If purchases continued to be made by Missouri citizens in Missouri counties then this would shift the current taxes to a different location. Oversight notes some locations would gain while others would lose revenue.

**Oversight** notes that §144.112 allows the DOR to enter reciprocal agreements with other states to only allow taxes to be collected at their source. The source is the location from which the products are shipped. Oversight notes that this could be a gain or loss of revenue depending on what other states and businesses choose to do.

**Oversight** will reflect an unknown greater than \$100,000 positive or negative impact to General Revenue and the Local Sales Tax funds and an unknown impact to all other state sales tax funds.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE</b>			
	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>
<u>Sales Tax Revenue Impact - taxing at source</u>			
	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>			
	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>	Unknown greater than \$100,000 to (Unknown greater than <u>\$100,000)</u>
<b>SCHOOL DISTRICT TRUST</b>			
<u>Sales Tax Revenue Impact - taxing at source</u>	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>ESTIMATED NET EFFECT TO THE SCHOOL DISTRICT TRUST FUND</b>	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>CONSERVATION COMMISSION</b>			
<u>Sales Tax Revenue Impact - taxing at source</u>	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND</b>	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL IMPACT - State Government  
 (continued)

FY 2020  
 (10 Mo.)

FY 2021

FY 2022

**PARKS, SOILS AND WATER**

Sales Tax Revenue Impact - taxing at  
 source

Unknown to  
(Unknown)

Unknown to  
(Unknown)

Unknown to  
(Unknown)

**ESTIMATED NET EFFECT TO  
 PARKS, SOILS AND WATER**

**Unknown to**  
**(Unknown)**

**Unknown to**  
**(Unknown)**

**Unknown to**  
**(Unknown)**

FISCAL IMPACT - Local Government

FY 2020  
 (10 Mo.)

FY 2021

FY 2022

**LOCAL POLITICAL SUBDIVISIONS**

Sales Tax Revenue Impact - taxing at  
 source

Unknown  
 greater than  
 \$100,000 to  
 (Unknown  
 greater than  
\$100,000)

Unknown  
 greater than  
 \$100,000 to  
 (Unknown  
 greater than  
\$100,000)

Unknown  
 greater than  
 \$100,000 to  
 (Unknown  
 greater than  
\$100,000)

**ESTIMATED NET EFFECT ON  
 LOCAL POLITICAL SUBDIVISIONS**

**Unknown**  
**greater than**  
**\$100,000 to**  
**(Unknown**  
**greater than**  
**\$100,000)**

**Unknown**  
**greater than**  
**\$100,000 to**  
**(Unknown**  
**greater than**  
**\$100,000)**

**Unknown**  
**greater than**  
**\$100,000 to**  
**(Unknown**  
**greater than**  
**\$100,000)**

FISCAL IMPACT - Small Business

This proposed legislation could potentially impact any small business in Missouri who allows for their product to be purchased online.

### FISCAL DESCRIPTION

This bill would source all retail sales in this state, excluding leases and rentals, of tangible personal property or digital goods to the location from which the seller ships the order or, if the seller does not ship the order, to the location where the seller receives the order, if:

- (1) The location where the seller receives the order and the location where the purchaser receives the product are both in Missouri; or
- (2) The location where the seller receives the order is within a jurisdiction that has entered into a reciprocal taxing agreement with the state of Missouri, as described in this bill.

This bill also allows the Department of Revenue to enter into a reciprocal taxing agreement with any state, territory of the United States, or the District of Columbia that sources all retail sales excluding leases and rentals, of tangible personal property or digital goods to the location from which the seller ships the order or, if the seller does not ship the order, to the location where the seller receives the order.

This proposal has an effective date of January 1, 2020.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Revenue  
Office of Administration Division of Budget and Planning



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February 22, 2019

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February 22, 2019