

SECOND REGULAR SESSION

HOUSE BILL NO. 2340

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

5167H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 32.095 and 144.070, RSMo, and to enact in lieu thereof two new sections relating to dealers engaged in certain transportation-related sales.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 32.095 and 144.070, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 32.095 and 144.070, to read as follows:

32.095. 1. Beginning January 1, 2012, the director of the department of revenue may select or appoint any motor vehicle dealer, as such term is defined in chapter 301, to act as an agent of the department of revenue for the purpose of titling and registering motor vehicles under chapter 301. Such motor vehicle dealers shall only act as an agent under this section for an initial sale or lease of a motor vehicle, but shall not act as an agent under this section for any subsequent registration under chapter 301 or 306.

2. **(1) If the department of revenue receives appropriations for a motor vehicle and driver's licensing integrated computer system, and if the department of revenue implements such a system, the provisions of subdivision (2) of this subsection shall apply in lieu of the provisions of subsection 1 of this section.**

(2) The director of the department of revenue may select or appoint any dealer licensed under the provisions of sections 301.550 to 301.580 to act as an agent of the department of revenue for the purpose of titling motor vehicles, trailers, boats, and outboard motors under chapter 301 or 306. Such a dealer shall only act as an agent under this section upon the sale or lease of a motor vehicle, trailer, boat, or outboard motor for purposes of titling and collecting the tax levied and imposed for the privilege of titling new

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **and used motor vehicles, trailers, boats, and outboard motors. Such a dealer shall not act**
18 **as an agent under this section for any subsequent registration under chapter 301 or 306.**

19 **3.** The director of revenue may promulgate rules to administer the provisions of this
20 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
21 under the authority delegated in this section shall become effective only if it complies with and
22 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
23 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
24 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
25 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
26 proposed or adopted after August 28, 2009, shall be invalid and void.

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or
2 outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales
3 tax law makes application to the director of revenue for an official certificate of title and the
4 registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law,
5 the owner shall present to the director of revenue evidence satisfactory to the director of revenue
6 showing the purchase price exclusive of any charge incident to the extension of credit paid by
7 or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard
8 motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its
9 acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax
10 provided by the Missouri sales tax law in addition to the registration fees now or hereafter
11 required according to law, and the director of revenue shall not issue a certificate of title for any
12 new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the
13 Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to
14 144.510 has been paid as provided in this section or is registered under the provisions of
15 subsection 5 of this section.

16 2. As used in subsection 1 of this section, the term "purchase price" shall mean the total
17 amount of the contract price agreed upon between the seller and the applicant in the acquisition
18 of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment
19 therefor.

20 3. In the event that the purchase price is unknown or undisclosed, or that the evidence
21 thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by
22 the director.

23 4. The director of the department of revenue shall endorse upon the official certificate
24 of title issued by the director upon such application an entry showing that such sales tax has been
25 paid or that the motor vehicle, trailer, boat, or outboard motor represented by such certificate is
26 exempt from sales tax and state the ground for such exemption.

27 5. Any person, company, or corporation engaged in the business of renting or leasing
28 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental
29 or lease purposes, and not for resale, may apply to the director of revenue for authority to operate
30 as a leasing or rental company and pay an annual fee of two hundred fifty dollars for such
31 authority. Any company approved by the director of revenue may pay the tax due on any motor
32 vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration
33 thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070
34 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not
35 exercise the option of paying in accordance with section 144.020, on the amount charged for
36 each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is
37 domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor which is leased as
38 the result of a contract executed in this state shall be presumed to be domiciled in this state.

39 6. Every applicant to be a lease or rental company shall furnish with the application a
40 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued by
41 any state or federal financial institution in the penal sum of one hundred thousand dollars, on a
42 form approved by the department. The bond or irrevocable letter of credit shall be conditioned
43 upon the lease or rental company complying with the provisions of any statutes applicable to
44 lease or rental companies, and the bond shall be an indemnity for any loss sustained by reason
45 of the acts of the person bonded when such acts constitute grounds for the suspension or
46 revocation of the lease or rental license. The bond shall be executed in the name of the state of
47 Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the
48 state of Missouri as the beneficiary; except that, the aggregate liability of the surety or financial
49 institution to the aggrieved parties shall, in no event, exceed the amount of the bond or
50 irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid
51 upon receipt by the department of a final judgment from a Missouri court of competent
52 jurisdiction against the principal and in favor of an aggrieved party.

53 7. Any corporation may have one or more of its divisions separately apply to the director
54 of revenue for authorization to operate as a leasing company, provided that the corporation:

55 (1) Has filed a written consent with the director authorizing any of its divisions to apply
56 for such authority;

57 (2) Is authorized to do business in Missouri;

58 (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from
59 one of its divisions to another of its divisions as a sale at retail;

60 (4) Has registered under the fictitious name provisions of sections 417.200 to 417.230
61 each of its divisions doing business in Missouri as a leasing company; and

62 (5) Operates each of its divisions on a basis separate from each of its other divisions.

63 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a

64 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to
65 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not apply.

66 8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge
67 and collect sales tax as provided in this section, the owner shall make application to the director
68 of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing
69 company. The director of revenue shall promulgate rules and regulations determining the
70 qualifications of such a company, and the method of collection and reporting of sales tax charged
71 and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or
72 outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing
73 companies under the provisions of subsection 5 of this section, and no motor vehicle renting or
74 leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come
75 under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats,
76 and outboard motors held for renting and leasing are included.

77 9. Any person, company, or corporation engaged in the business of renting or leasing
78 three thousand five hundred or more motor vehicles which are to be used exclusively for rental
79 or leasing purposes and not for resale, and that has applied to the director of revenue for authority
80 to operate as a leasing company may also operate as a registered fleet owner as prescribed in
81 section 301.032.

82 10. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560
83 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue
84 for authority to collect and remit the ~~[sales]~~ tax **imposed under subdivision (9) of subsection**
85 **1 of section 144.020** as required under this section on all motor vehicles sold by the motor
86 vehicle dealer. A motor vehicle dealer receiving authority to collect and remit the tax is subject
87 to all provisions under sections 144.010 to 144.525. Any motor vehicle dealer authorized to
88 collect and remit sales taxes on motor vehicles under this subsection shall be entitled to deduct
89 and retain an amount equal to two percent of the motor vehicle sales tax pursuant to section
90 144.140. Any amount of the tax collected under this subsection that is retained by a motor
91 vehicle dealer pursuant to section 144.140 shall not constitute state revenue. In no event shall
92 revenues from the general revenue fund or any other state fund be utilized to compensate motor
93 vehicle dealers for their role in collecting and remitting sales taxes on motor vehicles. In the
94 event this subsection or any portion thereof is held to violate Article IV, Section 30(b) of the
95 Missouri Constitution, no motor vehicle dealer shall be authorized to collect and remit sales
96 taxes on motor vehicles under this section. No motor vehicle dealer shall seek compensation
97 from the state of Missouri or its agencies if a court of competent jurisdiction declares that the
98 retention of two percent of the motor vehicle sales tax is unconstitutional and orders the return
99 of such revenues.

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