

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 415

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'DONNELL.

0668H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 144.020 and 144.070, RSMo, and to enact in lieu thereof two new sections relating to the processing of motor vehicle sales tax by licensed motor vehicle dealers.

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

Section A. Sections 144.020 and 144.070, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 144.020 and 144.070, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and
2 used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the
3 highways or waters of this state which are required to be titled under the laws of the state of
4 Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the
5 privilege of engaging in the business of selling tangible personal property or rendering
6 taxable service at retail in this state. The rate of tax shall be as follows:

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

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

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

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

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

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

42 (d) The director of revenue may promulgate and enforce reasonable rules and
43 regulations for the administration and enforcement of the provisions of this subdivision. Any
44 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
45 authority delegated in this section shall become effective only if it complies with and is
46 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
47 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
48 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a
49 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
50 rule proposed or adopted after August 28, 2019, shall be invalid and void;

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

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

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

65 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease
66 of tangible personal property, provided that if the lessor or renter of any tangible personal
67 property had previously purchased the property under the conditions of sale at retail or leased
68 or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor,
69 sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease,
70 sublease, rental or subrental receipts from that property. The purchase, rental or lease of
71 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors
72 shall be taxed and the tax paid as provided in this section and section 144.070. In no event
73 shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to,
74 for or in places of amusement, entertainment or recreation nor shall any such rental or lease
75 be subject to any tax imposed to, for, or in such places of amusement, entertainment or
76 recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of
77 the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible
78 personal property which is exempt from the sales or use tax under section 144.030 upon a sale
79 thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

80 (9) A tax equivalent to four percent of the purchase price, as defined in section
81 144.070, of new and used motor vehicles, trailers, boats, and outboard motors purchased or
82 acquired for use on the highways or waters of this state which are required to be registered
83 under the laws of the state of Missouri. This tax is imposed on the person titling such
84 property, and shall be paid according to the procedures in section **144.070 or** 144.440.

85 2. All tickets sold which are sold under the provisions of this chapter which are
86 subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words
87 "This ticket is subject to a sales tax."

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

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

16 2. As used in subsection 1 of this section, the term "purchase price" shall mean the
17 total amount of the contract price agreed upon between the seller and the applicant in the
18 acquisition of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of
19 payment 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 appraisement
22 by 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
25 been paid or that the motor vehicle, trailer, boat, or outboard motor represented by such
26 certificate is 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
30 operate as a leasing or rental company and pay an annual fee of two hundred fifty dollars for
31 such authority. Any company approved by the director of revenue may pay the tax due on
32 any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time
33 of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010,
34 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company
35 which does not exercise the option of paying in accordance with section 144.020, on the
36 amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or
37 outboard motor is domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor
38 which is leased as the result of a contract executed in this state shall be presumed to be
39 domiciled in this state.

40 6. Every applicant to be a registered fleet owner as described in subsections 6 to 10 of
41 section 301.032 shall furnish with the application to operate as a registered fleet owner a
42 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued
43 by any state or federal financial institution in the penal sum of one hundred thousand dollars,
44 on a form approved by the department. The bond or irrevocable letter of credit shall be
45 conditioned upon the registered fleet owner complying with the provisions of any statutes
46 applicable to registered fleet owners, and the bond shall be an indemnity for any loss
47 sustained by reason of the acts of the person bonded when such acts constitute grounds for the
48 suspension or revocation of the registered fleet owner license. The bond shall be executed in
49 the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable
50 letter of credit shall name the state of Missouri as the beneficiary; except that, the aggregate
51 liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed
52 the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable
53 letter of credit shall be paid upon receipt by the department of a final judgment from a
54 Missouri court of competent jurisdiction against the principal and in favor of an aggrieved
55 party.

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

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

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

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

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

66 (5) Operates each of its divisions on a basis separate from each of its other divisions.
67 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a
68 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to
69 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not
70 apply.

71 8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge
72 and collect sales tax as provided in this section, the owner shall make application to the
73 director of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor
74 leasing company. The director of revenue shall promulgate rules and regulations determining
75 the qualifications of such a company, and the method of collection and reporting of sales tax
76 charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers,

77 boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard
78 motor leasing companies under the provisions of subsection 5 of this section, and no motor
79 vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or
80 leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all
81 motor vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

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

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

104 **11. (1) Every motor vehicle dealer licensed under section 301.560 shall collect**
105 **and remit the sales tax required under this section on all motor vehicles that such dealer**
106 **sells. In collecting and remitting this sales tax, motor vehicle dealers shall be subject to**
107 **all applicable provisions under sections 144.010 to 144.527.**

108 **(2) The director of revenue may promulgate all necessary rules and regulations**
109 **for the administration of this subsection. Any rule or portion of a rule, as that term is**
110 **defined in section 536.010, that is created under the authority delegated in this**
111 **subsection shall become effective only if it complies with and is subject to all of the**
112 **provisions of chapter 536 and, if applicable, section 536.028. This subsection and**
113 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**

114 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
115 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
116 **and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

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