

FIRST REGULAR SESSION

# HOUSE BILL NO. 1137

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MERIDETH.

2379H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 144.070, 144.081, 144.140, and 144.608, RSMo, and to enact in lieu thereof four new sections relating to incentives for timely remittance of taxes.

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

Section A. Sections 144.070, 144.081, 144.140, and 144.608, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 144.070, 144.081,  
3 144.140, and 144.608, to read as follows:

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.

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.

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 apply to the director of  
89 revenue for authority to collect and remit the sales tax required under this section on all motor

90 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.]~~

144.081. 1. The director of revenue, by regulation, may require a seller to timely  
2 remit the unpaid state sales tax for each quarter-monthly period, only if the seller's aggregate  
3 state sales tax was ten thousand dollars or more in each of at least six months during the prior  
4 twelve months. The term "state sales tax" as used in this section means the tax imposed by  
5 sections 144.010 to 144.510 and the additional sales tax imposed by Sections 43(a) to 43(c)  
6 and 47(a) to 47(c) of Article IV of the Missouri Constitution and does not include any sales  
7 taxes imposed by political subdivisions of the state pursuant to other provisions of law.

8 2. The director may increase the monthly requirement to more than ten thousand  
9 dollars or otherwise narrow the application of the quarter-monthly remittance system  
10 authorized by this section. The director may not require the remittance of state sales taxes  
11 more often than monthly unless authorized by this section.

12 3. A remittance shall be timely if mailed as provided in section 143.851 within three  
13 banking days after the end of the quarter-monthly period or if received by the director or  
14 deposited in a depository designated by the director within four banking days after the end of  
15 the quarter-monthly period.

16 4. ~~[The unpaid amount shall be after a reduction for the compensation provided by  
17 section 144.140.]~~ The unpaid amount at the end of a quarter-monthly period shall not include  
18 unpaid amounts for a prior quarter-monthly period only if the seller made a remittance with  
19 respect to the prior quarter-monthly period. The excess, if any, of a remittance over the actual  
20 amount for a period shall be applied in order of time to each of the seller's succeeding  
21 remittances with respect to the same return period.

22 5. For purposes of this section, "quarter-monthly period" means:

23 (1) The first seven days of a calendar month;

24 (2) The eighth to fifteenth day of a calendar month;

25 (3) The sixteenth to twenty-second day of a calendar month; and

26 (4) The portion following the twenty-second of a calendar month.

27 6. (1) In the case of an underpayment of any amount required to be paid pursuant to  
28 this section, a seller shall be liable for a penalty in lieu of all other penalties, interest or  
29 additions to tax imposed by this chapter for violating this section. The penalty shall be five  
30 percent of the amount of the underpayment determined under subdivision (2) of this  
31 subsection.

32 (2) The amount of the underpayment shall be the excess of:

33 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly period, over

34 (b) The amount, if any, of the timely remittance for the quarter-monthly period.

35 7. (1) The penalty with respect to any quarter-monthly period shall not be imposed if  
36 the seller's timely remittance for the quarter-monthly period equals or exceeds one-fourth of  
37 the average monthly state sales tax liability of the seller for the preceding calendar year. The  
38 month of highest liability and the month of lowest liability shall be excluded in computing the  
39 average. This subdivision shall apply only to a seller who had a state sales tax liability for at  
40 least six months of the previous calendar year.

41 (2) The penalty shall not be imposed if the seller establishes that the failure to make a  
42 timely remittance of at least ninety percent was due to reasonable cause, and not due to willful  
43 neglect.

44 (3) The penalty shall not be imposed against any seller for the first two months the  
45 seller is obligated to make quarter-monthly remittance of state sales taxes.

46 8. Tax amounts remitted under this section shall be treated as payments on the seller's  
47 monthly return required by sections 144.080 and 144.090. Tax amounts remitted under this  
48 section shall be deemed to have been paid on the last day prescribed for filing the return. The  
49 preceding sentence shall apply in computing [~~compensation under section 144.140;~~] interest,  
50 penalties, and additions to tax and for purposes of all sections of this chapter, except this  
51 section.

52 9. The director of revenue may prescribe the use of an electronic funds payment  
53 system for the payment of sales and use taxes by any seller subject to the requirement of  
54 quarter-monthly remittance as provided in this section.

144.140. 1. [~~From every remittance to the director of revenue made on or before the  
2 date when the same becomes due, the person required to remit the same shall be entitled to  
3 deduct and retain an amount equal to two percent thereof.~~

4 ~~2.]~~ The director shall provide a monetary allowance from the taxes collected to a  
5 certified service provider under the terms of the certified service contract signed with the

6 provider, provided that such allowance shall be funded entirely from moneys collected by the  
7 certified service provider.

8 ~~[3. Any certified service provider receiving an allowance under subsection 2 of this~~  
9 ~~section shall not be entitled to simultaneously deduct the allowance provided for under~~  
10 ~~subsection 1 of this section.~~

11 ~~4.]~~ 2. For the purposes of this section, "certified service provider" shall mean an agent  
12 certified by the department of revenue to perform all the seller's sales and use tax functions,  
13 other than the seller's obligation to remit tax on its own purchases.

14 ~~[5. The provisions of this section relating to the allowance for timely remittance of~~  
15 ~~sales tax payment shall also be applicable to the timely remittance of use tax payment under~~  
16 ~~sections 144.600 to 144.746.]~~

144.608. 1. For the purpose of more efficiently securing the payment of and  
2 accounting for the tax collected and remitted by retailers and vendors, the department is  
3 hereby authorized:

4 (1) To consult, contract, and work jointly with the streamlined sales and use tax  
5 agreement's governing board to allow sellers to use the governing board's certified service  
6 providers and central registration system services; or

7 (2) To consult, contract, and work with certified service providers independently. The  
8 department is authorized to determine the method and amount of compensation to be  
9 provided to certified service providers by this state for the services of such certified service  
10 providers to certain sellers~~], provided that no certified service provider or seller utilizing a~~  
11 ~~certified service provider shall be entitled to the deduction provided in subsection 1 of section~~  
12 ~~144.140].~~

13 2. The department is also hereby authorized to independently take such actions as  
14 may be reasonably necessary to secure the payment of and account for the tax collected and  
15 remitted by retailers and vendors. The department shall independently carry out any or all  
16 activities relating to the collection of online use tax if the department, in its own judgment,  
17 determines that independently carrying out such activities would promote cost-saving to the  
18 state.

19 3. The director of revenue shall make, promulgate, and enforce reasonable rules and  
20 regulations for the administration and enforcement of the provisions of this chapter relating to  
21 the collection and remittance of sales and use tax by certified service providers. Any rule or  
22 portion of a rule, as that term is defined in section 536.010, that is created under the authority  
23 delegated in this section shall become effective only if it complies with and is subject to all of  
24 the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter  
25 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
26 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are

27 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
28 proposed or adopted after January 1, 2023, shall be invalid and void.

29 4. The provisions of this section shall automatically sunset five years after January 1,  
30 2023, unless reauthorized by an act of the general assembly.

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