

FIRST REGULAR SESSION

# SENATE BILL NO. 286

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS MATHEWSON AND STAPLES.

Read 1st time January 11, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1102S.021

## AN ACT

To repeal sections 142.803, 144.020, 144.700, 226.040 and 226.200, RSMo 2000, relating to transportation, and to enact in lieu thereof eight new sections relating to the same subject, with a referendum clause.

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

Section A. Sections 142.803, 144.020, 144.700, 226.040 and 226.200, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known as sections 142.803, 144.020, 144.700, 226.039, 226.040, 226.193, 226.200 and 226.1000, to read as follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, ~~[seventeen]~~ **nineteen** cents per gallon~~].~~ Beginning April 1, 2008, the tax rate shall become eleven cents per gallon];

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, a tax equivalent to **[four] five** percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to **[four] five** percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

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

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

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

(6) A tax equivalent to **[four] five** percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

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

(8) A tax equivalent to **[four] five** percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in

subdivision (8) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase or use of motor vehicles, trailers, boats, and outboard motors shall be taxed and the tax paid as provided in sections 144.070 and 144.440. No tax shall be collected on the rental or lease of motor vehicles, trailers, boats, and outboard motors, except as provided in sections 144.070 and 144.440. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.700. 1. All revenue received by the director of revenue from the tax imposed by sections 144.010 to 144.430 and 144.600 to 144.745, except that revenue derived from the rate of one cent on the dollar of the tax which shall be held and distributed in the manner provided in sections 144.701 and 163.031, RSMo, **and except that revenue derived from the rate of one cent on the dollar of the tax which shall be held and distributed in the manner prescribed in section 226.1000** shall be deposited in the state general revenue fund, including any payments of the taxes made under protest.

2. The director of revenue shall keep accurate records of any payment of the tax made under protest. In the event any payment shall be made under protest:

(1) A protest affidavit shall be submitted to the director of revenue within thirty days after the payment is made; and

(2) An appeal shall be taken in the manner provided in section 144.261 from any decision of the director of revenue disallowing the making of the payment under protest or an application shall be filed by a protesting taxpayer with the director of revenue for a stay of the period for appeal on the ground that a case is presently pending in the courts involving the same question, with an agreement by the taxpayer to be bound by the final decision in the pending case.

3. Nothing in this section shall be construed to apply to any refund to which the taxpayer would be entitled under any applicable provision of law.

4. All payments deposited in the state general revenue fund that are made under protest shall be retained in the state treasury if the taxpayer does not prevail. If the taxpayer prevails, then taxes paid under protest shall be refunded to the taxpayer, with all interest income derived

therefrom, from funds appropriated by the general assembly for such purpose.

**226.039. The director of the department of transportation shall be elected for a term of two years at the general election in the year 2002, and his or her successors shall be elected for terms of two years in subsequent elections. The director of the department of transportation shall hold office for a term of two years beginning at noon on the second Monday in January next after his or her election and until a successor is elected and qualified. The provisions of chapter 115, RSMo, governing the conduct of elections, shall apply to the election of the director of the department of transportation.**

226.040. 1. [The state highways and transportation commission shall appoint a chief executive officer with the title of director of the Missouri department of transportation.] The director shall serve at the pleasure of the commission. The director shall be a citizen and a resident of this state, shall have had executive management experience for at least five years, and may be a registered professional engineer. The director's duties shall include appointment of a chief engineer, a chief financial officer and other department heads, engineers and other employees as the commission may designate and deem necessary. Under the direction of the commission, the director shall have general charge of, and be responsible for, the overall operations and performance of the department. The director shall provide quarterly to the commission at its regularly scheduled meetings a current unaudited written version of the report required in subsection 2 of section 21.795, RSMo, with changes from the most recent audited report clearly marked. Such report shall be made available to the public.

2. The chief engineer shall be a registered professional engineer responsible for preparation and approval of all engineering documents, plans and specifications and shall have general oversight of construction and maintenance work for the department as determined by the director.

3. Engineers of the department responsible for supervising the activities of road and bridge design, construction, maintenance and materials inspection and analysis shall be registered professional engineers in this state.

**226.193. 1. In all cases in which the commission desires to cooperate with any county commission or with any municipal corporation in the establishment, construction, reconstruction, widening, maintenance, repair or improvement of any road, street or highway under the jurisdiction of such unit of local government due to new development, the commission shall, as a condition precedent to extending such cooperation, require such county or municipal corporation to provide at least fifty percent of the cost of such improvement which it proposes to furnish. Such requirement shall be prescribed by the commission at any time after the county or legislative authority of the municipal corporation has, by resolution, proposed such cooperation, and when such requirement is prescribed, the commission may not proceed**

**with the improvement upon the cooperative basis until such requirement is met.**

**2. As used in this section, the term "new development" means any residential, commercial, industrial or other project which is being newly constructed, reconstructed, redeveloped, structurally altered, relocated, or enlarged, and which generates additional traffic within the service area or areas of the unit of local government.**

**3. "Improvement" includes construction of new roads or improvement or expansion of existing roads and also includes the improvement of bridges, rights-of-way, and traffic control improvements within such units of local government.**

226.200. 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

(1) Money arising from the sale of bonds;

(2) Money received from the United States government; or

(3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

(1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;

(2) Of maintaining the state highways and transportation commission;

(3) Of maintaining the state transportation department;

(4) Of any workers' compensation for state transportation department employees;

(5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and

(6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. **[For all future fiscal years,] the total amount of appropriations from the state highways and transportation department fund for all state offices and departments shall not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001. Beginning in fiscal year 2003, the total amount of appropriations from the state highways and transportation department fund for all state offices and departments shall be reduced by twenty percent. For every subsequent fiscal year thereafter, the total**

**amount of appropriations from said fund for such offices and departments shall be reduced an additional twenty percent until all state offices and departments do not receive any appropriations from the fund.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.

**226.1000. 1. The "State Sales Tax Transportation Fund" is hereby established. The revenue derived from the rate of one cent on the dollar of the tax imposed by section 144.010 to 144.030 and section 144.600 to 144.745 which shall be deemed to be local tax revenue, shall be deposited by the state treasurer in the state sales tax transportation fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the state sales tax transportation fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund.**

**2. The state sales tax transportation fund, shall, upon appropriation, shall be used by the commission in the following manner:**

**(1) Fifteen percent of the moneys in the fund shall be used annually by the transportation department for the purpose of locating, relocating, establishing, acquiring, constructing, planning, developing, maintaining or operating public transit systems. Seventy-five percent of such moneys shall be used for public transit systems in municipalities which have a population of fifty thousand or greater. Twenty-five percent of such moneys shall be used for public transit systems in municipalities that have a population under fifty thousand;**

**(2) Five percent of the moneys in the fund shall be used annually by the transportation department for the purpose of paying for multi-modal transportation projects, other than highway, such as aviation, ports and railroads;**

**(3) Thirty percent of the moneys in the fund shall be used annually by the transportation department for the purpose of repairing, rehabilitating, constructing or expanding the interstate highway system within Missouri. Two percent of these allotted funds shall be used for the purpose of paying the costs of issuing state road revenue bonds and the costs of feasibility studies for and the design, acquisition, construction, and reconstruction of a state-wide toll road project; and**

**(4) Fifty percent of the moneys in the fund shall be used annually by the transportation department for the purpose of repairing, rehabilitation, constructing, improving or expanding the state highway system. Two percent of these allotted funds shall be used for the purpose of paying the costs of issuing state road revenue bonds and the costs of feasibility studies for and the design, acquisition, construction, and reconstruction of a state-wide toll road project.**

Section B. Sections 142.803, 144.020, 144.700, 226.039, 226.040, 226.193, 226.200 and 226.1000 of this act are hereby submitted to the qualified voters of this state for approval or rejection at a special election which is hereby ordered and which shall be held and conducted on the first Tuesday in November, 2002, pursuant to the laws and constitutional provisions of this state applicable to general elections and the submission of referendum measures by initiative petitions, and sections 142.803, 144.020, 144.700, 226.039, 226.040, 226.193, 226.200 and 226.1000 of this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.

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