

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 674

AN ACT

To repeal sections 32.310, 67.1360, 144.605, and 144.757, RSMo, and to enact in lieu thereof seven new sections relating to taxation.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 32.310, 67.1360, 144.605, and 144.757, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 32.310, 67.1360, 94.842, 144.605, 144.637, 144.752, and 144.757, to read as follows:

32.310. 1. The department of revenue shall create and maintain a mapping feature on its official public website that displays sales and use tax information of political subdivisions of this state that have taxing authority, including the current tax rate for each sales and use tax imposed and collected. Such display shall have the option to showcase the borders and jurisdiction of the following political subdivisions on a map of the state to the extent that such political subdivisions collect sales and use tax:

- (1) Ambulance districts;
- (2) Community improvement districts;
- (3) Fire protection districts;

(4) Levee districts;  
(5) Library districts;  
(6) Neighborhood improvement districts;  
(7) Port authority districts;  
(8) Tax increment financing districts;  
(9) Transportation development districts;  
(10) School districts; or  
(11) Any other political subdivision that imposes a sales or use tax within its borders and jurisdiction.

2. The mapping feature shall also have the option to superimpose state house of representative districts and state senate districts over the political subdivisions.

3. A political subdivision collecting sales or use tax listed in subsection 1 of this section shall provide to the department of revenue mapping and geographic data pertaining to the political subdivision's borders and jurisdictions. The political subdivision shall certify the accuracy of the data by affidavit and shall provide the data in a format specified by the department of revenue. Such data shall be sent to the department of revenue by April 1, 2019, and shall be updated and sent to the department if a change in the political subdivision's borders or jurisdiction occurs thereafter.

4. The department of revenue may contract with another entity to build and maintain the mapping feature.

5. By July 1, 2019, the department shall implement the mapping feature using the data provided to it under subsection 3 of this section.

67.1360. 1. The governing body of the following cities and

counties may impose a tax as provided in this section:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand

inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than

two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than

two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred

ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-06 between one thousand eight hundred and one thousand nine hundred;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first

classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants;

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants;

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

(33) Any city of the fourth classification with more than one thousand eight hundred but fewer than one thousand nine hundred inhabitants and located in any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(34) Any county of the third classification without a township form of government and with more than twelve thousand one hundred but fewer than twelve thousand two hundred inhabitants;

(35) Any city of the fourth classification with more than three thousand eight hundred but fewer than four thousand inhabitants and located in more than one county; provided,



however, that motels owned by not-for-profit organizations are exempt; [or]

(36) Any city of the fourth classification with more than five thousand but fewer than five thousand five hundred inhabitants and located in any county with a charter form of government and with more than two hundred thousand but fewer than three hundred fifty thousand inhabitants; or

(37) Any city with more than four thousand but fewer than five thousand five hundred inhabitants and located in any county of the fourth classification with more than thirty thousand but fewer than forty-two thousand inhabitants.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns, and campgrounds and any docking facility [which] that rents slips to recreational boats [which] that are used by transients for sleeping, which shall be at least two percent[, ] but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary, or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of

tourism. Such tax shall be stated separately from all other charges and taxes.

94.842. 1. The governing body of any home rule city with more than one hundred fifty-five thousand but fewer than two hundred thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city, which shall not be more than seven and one-half percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax under the provisions of this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law, and the proceeds of such tax shall be used solely for capital investments that can be demonstrated to increase the number of overnight visitors. Such tax shall be stated separately from all other charges and taxes.

2. The question shall be submitted in substantially the following form:

Shall the (city) levy a tax of    percent on each sleeping room occupied and rented by transient guests of hotels and motels located in the city, where the proceeds of which shall be expended for capital investments to increase tourism?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax

shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city shall have no power to impose the tax authorized by this section unless and until the governing body of the city again submits the question to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

3. On and after the effective date of any tax authorized under the provisions of this section, the city which levied the tax may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city which levied the tax may adopt rules and regulations for the internal collection of such tax by the city officers usually responsible for collection and administration of city taxes; or

(2) The city may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section. In the event any city enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section. The tax authorized under the provisions of this section shall be collected and reported upon such forms and under such

administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain not more than one percent for cost of collection.

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel, motel, or tourist court consecutively for thirty-one days or less.

144.605. The following words and phrases as used in sections 144.600 to 144.745 mean and include:

(1) "Calendar quarter", the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth or December thirty-first;

(2) "Engages in business activities within this state" includes:

(a) Maintaining or having a franchisee or licensee operating under the seller's trade name in this state if the franchisee or licensee is required to collect sales tax pursuant to sections 144.010 to 144.525;

(b) Soliciting sales or taking orders by sales agents or traveling representatives;

(c) A vendor is presumed to engage in business activities within this state if any person, other than a common carrier acting in its capacity as such, that has substantial nexus with this state:

a. Sells a similar line of products as the vendor and does so under the same or a similar business name;

b. Maintains an office, distribution facility, warehouse, or storage place, or similar place of business in the state to facilitate the delivery of property or services sold by the

vendor to the vendor's customers;

c. Delivers, installs, assembles, or performs maintenance services for the vendor's customers within the state;

d. Facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the state; or

e. Conducts any other activities in the state that are significantly associated with the vendor's ability to establish and maintain a market in the state for the sales;

(d) The presumption in paragraph (c) of this subdivision may be rebutted by demonstrating that the person's activities in the state are not significantly associated with the vendor's ability to establish or maintain a market in this state for the vendor's sales;

(e) Notwithstanding paragraph (c) of this subdivision, a vendor shall be presumed to engage in business activities within this state if the vendor enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website, an in-person oral presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross receipts from sales by the vendor to customers in the state who are referred to the vendor by all residents with this type of an agreement with the vendor is in excess of ten thousand dollars during the preceding twelve months;

(f) The presumption in paragraph (e) of this subdivision may be rebutted by submitting proof that the residents with whom the vendor has an agreement did not engage in any activity within the state that was significantly associated with the vendor's ability to establish or maintain the vendor's market in the state during the preceding twelve months. Such proof may consist of sworn written statements from all of the residents with whom the vendor has an agreement stating that they did not engage in any solicitation in the state on behalf of the vendor during the preceding year provided that such statements were provided and obtained in good faith;

(g) a. Beginning October 1, 2019, a vendor engages in business activities within this state if the cumulative gross receipts from the vendor's sales of tangible personal property to purchasers for the purpose of storage, use, or consumption in this state are one hundred thousand dollars or more during any twelve-month period, as determined under subparagraph b of this paragraph;

b. Following the close of each calendar quarter, a vendor shall determine whether the vendor met the requirements provided under subparagraph a of this paragraph during the twelve-month period ending on the last day of the preceding calendar quarter. If the vendor met such requirements for any such twelve-month period, such vendor shall collect and remit the tax as provided under section 144.635 for a period of not less than twelve months, beginning not more than three months following the close of the preceding calendar quarter, and shall continue to collect and remit the tax for as long as the vendor is engaged in

business activities in this state, as provided under this paragraph, or otherwise maintains a substantial nexus with this state;

(3) "Maintains a place of business in this state" includes maintaining, occupying, or using, permanently or temporarily, directly or indirectly, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in this state, whether owned or operated by the vendor or by any other person other than a common carrier acting in its capacity as such;

(4) "Person", any individual, firm, copartnership, joint venture, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property, through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

(6) "Purchaser", any person who is the recipient for a valuable consideration of any sale of tangible personal property acquired for use, storage or consumption in this state;

(7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal property, or the right to use, store or consume the same, for a consideration paid or to be

paid, and any transaction whether called leases, rentals, bailments, loans, conditional sales or otherwise, and notwithstanding that the title or possession of the property or both is retained for security. For the purpose of this law the place of delivery of the property to the purchaser, user, storer or consumer is deemed to be the place of sale, whether the delivery be by the vendor or by common carriers, private contractors, mails, express, agents, salesmen, solicitors, hawkers, representatives, consignors, peddlers, canvassers or otherwise;

(8) "Sales price", the consideration including the charges for services, except charges incident to the extension of credit, paid or given, or contracted to be paid or given, by the purchaser to the vendor for the tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and any amount for which credit is given to the purchaser by the vendor, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, losses or any other expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included and "sales price" shall not include the amount charged for property returned by customers upon rescission of the contract of sales when the entire amount charged therefor is refunded either in cash or credit or the amount charged for labor or services rendered in installing or applying the property sold, the use, storage or consumption of which is taxable pursuant to sections 144.600 to 144.745. The sales price shall not include usual and customary delivery



charges that are separately stated. In determining the amount of tax due pursuant to sections 144.600 to 144.745, any charge incident to the extension of credit shall be specifically exempted;

(9) "Selling agent", every person acting as a representative of a principal, when such principal is not registered with the director of revenue of the state of Missouri for the collection of the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and who receives compensation by reason of the sale of tangible personal property of the principal, if such property is to be stored, used, or consumed in this state;

(10) "Storage", any keeping or retention in this state of tangible personal property purchased from a vendor, except property for sale or property that is temporarily kept or retained in this state for subsequent use outside the state;

(11) "Tangible personal property", all items subject to the Missouri sales tax as provided in subdivisions (1) and (3) of subsection 1 of section 144.020;

(12) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections 144.600 to 144.745;

(13) "Use", the exercise of any right or power over tangible personal property incident to the ownership or control of that property, except that it does not include the temporary storage of property in this state for subsequent use outside the state, or the sale of the property in the regular course of business;

(14) "Vendor", every person engaged in making sales of

tangible personal property by mail order, by advertising, by agent or peddling tangible personal property, soliciting or taking orders for sales of tangible personal property, for storage, use or consumption in this state, all salesmen, solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of the dealers, distributors, consignors, supervisors, principals or employers under whom they operate or from whom they obtain the tangible personal property sold by them, and every person who maintains a place of business in this state, maintains a stock of goods in this state, or engages in business activities within this state and every person who engages in this state in the business of acting as a selling agent for persons not otherwise vendors as defined in this subdivision. Irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, consignors, supervisors, principals or employers, they must be regarded as vendors and the dealers, distributors, consignors, supervisors, principals or employers must be regarded as vendors for the purposes of sections 144.600 to 144.745.

144.637. 1. The director of revenue shall provide and maintain a database that describes boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of vendors collecting the tax imposed under sections 144.600 to 144.745.

2. For the identification of counties and cities, codes corresponding to the rates shall be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology. For the

identification of all other jurisdictions, codes corresponding to the rates shall be in a format determined by the director.

3. The director shall provide and maintain a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The lowest combined tax rate imposed in the zip code area shall apply if the area includes more than one tax rate in any level of taxing jurisdiction. If a nine-digit zip code designation is not available for a street address, or if a vendor is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the vendor may apply the rate for the five-digit zip code area. For purposes of this section, there shall be a rebuttable presumption that a vendor has exercised due diligence if the vendor has attempted to determine the nine-digit zip code designation by utilizing software approved by the director that makes this designation from the street address and the five-digit zip code applicable to a purchase.

4. The director may provide address-based boundary database records for assigning taxing jurisdictions and associated rates which shall be in addition to the requirements of subsection 3 of this section. The database records shall be in the same approved format as the database records required under subsection 3 of this section and shall meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director develops address-based assignment database records, vendors shall be required to use such database. A vendor shall use such database records in place

of the five- and nine-digit zip code database records provided for in subsection 3 of this section. If a vendor is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the vendor may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a vendor is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the vendor may apply the rate for the five-digit zip code area. For the purposes of this section, there shall be a rebuttable presumption that a vendor has exercised due diligence if the vendor has attempted to determine the tax rate and jurisdiction by utilizing software approved by the director and makes the assignment from the address and zip code information applicable to the purchase. If the director has met the requirements of subsection 3 of this section, the director may also elect to certify address-based databases provided by third parties for assigning tax rates and jurisdictions. The databases shall be in the same approved format as the database records under this section and meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director certifies an address-based database provided by a third party, a vendor may use such database in place of the database provided for in this subsection.

5. The electronic databases provided for in subsections 1, 2, 3, and 4 of this section shall be in downloadable format as determined by the director. The databases may be directly

provided by the director or provided by a third party as designated by the director. The databases shall be provided at no cost to the user of the database. The provisions of subsections 3 and 4 of this section shall not apply if the purchased product is received by the purchaser at the business location of the vendor.

6. No vendor shall be liable for reliance upon erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments.

144.752. 1. For the purposes of this section, the following terms shall mean:

(1) "Marketplace facilitator", a person that:

(a) Facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller in any forum, tangible personal property or services that are subject to tax under this chapter; and

(b) Either directly or indirectly through agreements or arrangements with third parties collecting payment from the purchaser and transmitting such payment to the marketplace seller regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

A marketplace facilitator is a seller and shall comply with the provisions of this chapter. A marketplace facilitator does not include a person who provides internet advertising services, or product listing, and does not collect payment from the purchaser and transmit payment to the marketplace seller, and does not include a person with respect to the provision of travel agency

services or the operation of a marketplace or that portion of a marketplace that enables consumers to receive travel agency services. For the purposes of this subdivision, "travel agency services" means facilitating, for a commission, fee, or other consideration, vacation or travel packages, rental car or other travel reservations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations;

(2) "Marketplace seller", a seller that makes sales through any electronic marketplace operated by a marketplace facilitator;

(3) "Person", any individual, firm, copartnership, joint venture, association, corporation, municipal or private, whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the department of transportation, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit;

(4) "Purchaser", any person who is the recipient for a valuable consideration of any sale of tangible personal property acquired for use, storage, or consumption in this state;

(5) "Retail sale", the same meaning as defined under sections 144.010 and 144.011, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors required to be titled under the laws of the state and subject to tax under subdivision (9) of subsection 1 of section 144.020;

(6) "Seller", a person selling or furnishing tangible personal property or rendering services on the receipts from

which a tax is imposed under section 144.020.

2. By no later than January 1, 2021, marketplace facilitators that reach the threshold provided paragraph (g) of under subdivision (2) of section 144.605 shall register with the department to collect and remit sales and use tax, as applicable, on sales made through the marketplace facilitator's marketplace by or on behalf of a marketplace seller that are purchased in or delivered into the state, whether by the marketplace facilitator or another person, and regardless of whether the marketplace seller for whom sales are facilitated possesses a retail sales license or would have been required to collect sales or use tax had the sale not been facilitated by the marketplace facilitator. Such retail sales shall include those made directly by the marketplace facilitator and shall also include those retail sales made by marketplace sellers through the marketplace facilitator's marketplace. The collection and reporting requirements of this subsection shall not apply to retail sales other than those made through a marketplace facilitator's marketplace. Nothing in this section shall be construed to limit or prohibit the ability of a marketplace facilitator and a marketplace seller to enter into agreements regarding the fulfillment of the requirements of this chapter.

3. Marketplace facilitators that are required to collect sales and use tax under this section shall report and remit the tax separately from any sales and use tax collected by the marketplace facilitator, or by affiliates of the marketplace facilitator, which the marketplace facilitator would have been required to collect and remit under the provisions of this

chapter prior to January 1, 2021. Such tax shall be reported and remitted on a marketplace facilitator return to be developed and published by the department. Marketplace facilitators shall maintain records of all sales delivered to a location in the state, including copies of invoices showing the purchaser, address, purchase amount, and sales and use tax collected. Such records shall be made available for review and inspection upon request by the department.

4. Marketplace facilitators who properly collect and remit to the department in a timely manner sales and use tax on sales in accordance with the provisions of this section by or on behalf of marketplace sellers shall be eligible for any discount provided under this chapter.

5. A marketplace facilitator shall provide the purchaser with a statement or invoice showing that the sales or use tax was collected and shall be remitted on the purchaser's behalf.

6. Any taxpayer who remits sales or use tax under this section shall be entitled to refunds or credits to the same extent and in the same manner provided for in section 144.190 for taxes collected and remitted under this section. Nothing in this section shall relieve a purchaser of the obligation to remit sales or use tax for any retail sale taxable under this chapter for which a marketplace facilitator or marketplace seller does not collect and remit the sales or use tax.

7. Except as provided under subsections 8 to 10 of this section, marketplace facilitators shall be subject to the penalty provisions, procedures, and reporting requirements provided under the provisions of this chapter.



8. No class action shall be brought against a marketplace facilitator in any court in this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected on retail sales facilitated by a marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection shall affect a purchaser's right to seek a refund as provided under section 144.190.

9. An audit performed by the department under this chapter shall only be performed on a marketplace facilitator for sales made by marketplace sellers but facilitated by the marketplace facilitator. The department shall not audit a marketplace seller for sales facilitated by a marketplace facilitator except to the extent a marketplace facilitator seeks relief from liability under the provisions of paragraph (a) of subdivision (1) of subsection 10 of this section.

10. (1) A marketplace facilitator shall be relieved from liability under this section for the failure to collect and remit the correct amount of sales or use tax on retail sales facilitated for marketplace sellers under the following circumstances:

(a) To the extent that the marketplace facilitator demonstrates to the satisfaction of the department that the error was due to insufficient or incorrect information given to the marketplace facilitator by the marketplace seller; provided, however, that a marketplace facilitator shall not be relieved of liability under this paragraph if the marketplace facilitator and the marketplace seller are affiliated;

(b) To the extent that the marketplace facilitator demonstrates to the satisfaction of the department that:

a. The marketplace facilitator is not the seller and that the marketplace facilitator and marketplace seller are not affiliated;

b. The retail sale was facilitated for a marketplace seller through a marketplace operated by the marketplace facilitator; and

c. The failure to collect and remit the correct amount of sales or use tax was due to an error other than an error in sourcing the sale under the provisions of this chapter.

(2) The relief from liability provided under subdivision (1) of this subsection shall not exceed the following percentage of the total sales and use tax due on retail sales facilitated by a marketplace facilitator for marketplace sellers and sourced to this state during a calendar year, which such retail sales shall not include retail sales made directly by the marketplace facilitator or affiliates of the marketplace facilitator:

(a) For retail sales made or facilitated during the 2021 calendar year, four percent;

(b) For retail sales made or facilitated during the 2022 calendar year, two percent;

(c) For retail sales made or facilitated during the 2023 calendar year, one percent; and

(d) For retail sales made or facilitated for all years beginning January 1, 2024, zero percent.

(3) To the extent that a marketplace facilitator is relieved of liability for the collection of sales and use tax

under this subsection, the marketplace seller for whom the marketplace facilitator has made or facilitated the sale shall also be relieved of liability under this subsection.

(4) The department shall determine the manner in which a marketplace facilitator or marketplace seller shall apply for and claim the relief from liability provided for under this subsection.

11. The department may grant a waiver from the requirements of this section if a marketplace facilitator demonstrates to the satisfaction of the department that all of its marketplace sellers are already registered under the provisions of this chapter to collect and remit sales and use tax. If such waiver is granted, the sales or use tax due shall be collected and remitted by the marketplace seller. The department shall develop guidelines by rule that establish the criteria for obtaining a waiver, the process and procedure for a marketplace facilitator or marketplace seller to apply for a waiver, and the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver obtained under the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking

authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void.

12. For the purposes of this section, a marketplace facilitator shall not include a third party financial institution appointed by a merchant or a marketplace facilitator to handle various forms of payment transactions, such as processing credit cards and debit cards, and whose sole activity with respect to marketplace sales is to facilitate the payment transactions between two parties.

144.757. 1. Any county or municipality, except municipalities within a county having a charter form of government with a population in excess of nine hundred thousand, may, by a majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined in section 32.085 at a rate equal to the rate of the local sales tax in effect in such county or municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to 144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection

4 of section 94.890. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890 for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the \_\_\_\_\_ (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, [currently \_\_\_\_\_ (insert percent),] provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers.

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) (a) The ballot of submission in a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of enhancing county and municipal public

safety, parks, and job creation and enhancing local government services, shall the county be authorized to collect a local use tax equal to the total of the existing county sales tax rate [of (insert tax rate)], provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? Fifty percent of the revenue shall be used by the county throughout the county for improving and enhancing public safety, park improvements, and job creation, and fifty percent shall be used for enhancing local government services. The county shall be required to make available to the public an audited comprehensive financial report detailing the management and use of the countywide portion of the funds each year.

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers.

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(b) The ballot of submission in a municipality within a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the

following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers.

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(3) The ballot of submission in any city not within a county shall contain substantially the following language:

Shall the \_\_\_\_\_ (city name) impose a local use tax at the same rate as the local sales tax, [currently at a rate of \_\_\_\_\_ (insert percent)] which includes the capital improvements sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? [A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.] Approval of this question will eliminate the disparity in tax rates collected by local and out-of-state

sellers by imposing the same rate on all sellers.

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or



municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form or subject of the use tax or the manner in which it is collected.