

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 762

AN ACT

To repeal sections 32.310, 54.140, 64.805, 89.020, 105.145, 144.605, and 144.757, RSMo, and to enact in lieu thereof twenty-two new sections relating to local government, with penalty provisions.

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

Section A. Sections 32.310, 54.140, 64.805, 89.020, 105.145, 144.605, and 144.757, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 32.310, 37.1090, 37.1091, 37.1092, 37.1093, 37.1094, 37.1095, 37.1096, 37.1097, 37.1098, 54.140, 64.002, 64.805, 65.702, 67.403, 89.020, 94.842, 105.145, 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.

37.1090. As used in sections 37.1090 to 37.1098, the following terms mean:

(1) "Expenditure", any monetary payment from a municipality to any vendor including, but not limited to, a payment, distribution, loan, advance, reimbursement, deposit, or gift;

(2) "Municipality", a city, town, or village that is incorporated in accordance with the laws of this state;

(3) "State entity", the general assembly; the supreme court of Missouri; the office of an elected state official; or an agency, board, commission, department, institution, instrumentality, office, or other governmental entity of this state, excluding municipalities, institutions of higher education, and any public employee retirement system;

(4) "Vendor", any person, partnership, corporation, association, organization, state entity, or other party that either:

(a) Sells, leases, or otherwise provides equipment, materials, goods, supplies, or services to a municipality; or

(b) Receives reimbursement from a municipality for any expense.

37.1091. The "Missouri Municipal Government Expenditure Database" is hereby created and shall be maintained on the Missouri accountability portal, established under section 37.850, by the office of administration. The database shall be available on the office of administration website and shall include information about expenditures made during each fiscal year that

begins after December 31, 2021. The database shall be accessible by members of the public without charge.

37.1092. For each expenditure, the Missouri municipal government expenditure database shall include the following information:

- (1) The amount of the expenditure;
- (2) The date the expenditure was paid;
- (3) The vendor to whom the expenditure was paid, unless the disclosure of the vendor's name would violate a confidentiality requirement, in which case the vendor may be listed as confidential;
- (4) The purpose of the expenditure; and
- (5) The municipality that made the expenditure or requested the expenditure be made.

37.1093. The Missouri municipal government expenditure database shall provide:

- (1) A database of all expenditures; and
- (2) The ability to download information.

37.1094. 1. A municipality may choose to voluntarily participate in the Missouri municipal government expenditure database or, if a requisite number of residents of a municipality request the municipality to participate, shall participate in the Missouri municipal government expenditure database. The requisite number of residents signing the petition shall be five percent of the registered voters of such jurisdiction voting in the last municipal election. Residents may request participation by submitting a written letter by certified mail to the governing body of the municipality and the office of administration.

Multiple residents may sign one letter, but the number of requests from residents shall include all requests from all letters received. Upon receiving such a letter, a municipality shall acknowledge receipt thereof to the resident and the office of administration within thirty days. After receiving the requisite number of requests, a municipality shall begin participating in the database but shall not be required to report expenditures incurred before one complete six-month reporting period described under subsection 2 of this section has elapsed.

2. Each municipality participating in the database shall provide electronically transmitted information to the office of administration, in a format the office requires, for inclusion in the Missouri municipal government expenditure database regarding each of the municipality's expenditures biannually. Information regarding the first half of the calendar year shall be submitted before July thirty-first of such year. Information regarding the second half of the calendar year shall be submitted before January thirtieth of the year immediately following such year.

3. Notwithstanding the provisions of subsection 1 of this section, no submission shall be required for any expenditures incurred before January 1, 2022.

4. The office of administration shall provide each municipality participating in the database with a template in the format described under section 37.1092 for the purpose of uploading the data. The office of administration shall have the authority to grant the municipality access for the purpose of uploading data.

5. Upon appropriation, the office of administration shall

provide financial reimbursement to any participating municipality for actual expenditures incurred for participating in the database.

37.1095. No later than one year after the Missouri municipal government expenditure database is implemented, the office of administration shall provide, on the office of administration website, an opportunity for public comment on the utility of the database.

37.1096. The Missouri municipal government expenditure database shall not include any confidential information or any information that is not a public record under the laws of this state. However, the state shall not be liable for the disclosure of a record in the Missouri municipal government expenditure database that is confidential information or is not a public record under the laws of this state.

37.1097. Each municipality that has a website shall display on its website a prominent internet link to the Missouri municipal government expenditure database.

37.1098. The office of administration may adopt rules to implement the provisions of sections 37.1090 to 37.1098. 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.

54.140. It shall be the duty of the county treasurer to separate and divide the revenues of such county in his or her hands and as they come into his or her hands in compliance with the provision of law; and it shall be ~~[his]~~ the treasurer's duty to pay out the revenues thus subdivided, on warrants issued by order of the commission, on the respective funds so set apart and subdivided, and not otherwise; and for this purpose the treasurer shall have access to any document in the possession of any county official that the treasurer requests that is financially relevant for the purposes of processing a warrant and shall keep a separate account with the county commission of each fund which several funds shall be known and designated as provided by law; and no warrant shall be paid out of any fund other than that upon which it has been drawn by order of the commission as aforesaid. No official of any county shall refuse a request from the county treasurer for access to or a copy of any document in the possession of a county official that is financially relevant to his or her duties under section 50.330. Any county treasurer or other county officer, who shall fail or refuse to perform the duties required of him or ~~[them]~~ her under the provisions of this section and chapters 136 to 154, and in the express manner provided and directed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and not more than five hundred dollars[, and in addition to such punishment, his office shall

become vacant].

64.002. For purposes of a zoning law, ordinance, or code authorized and enacted under this chapter, a zoning or property classification of agricultural or horticultural shall include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421.

64.805. The county planning commission shall consist of the county highway engineer, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such person shall be appointed from a township in which there is no unincorporated area. The township representatives are hereinafter referred to as appointed members. The term of each appointed member shall be four years or until a successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be only for the duration of the engineer's tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses may be paid to the appointed members of the county planning commission in an amount, as set by the county commission, not to exceed [twenty-five] thirty-five dollars per meeting. The planning commission shall elect its chairman, who shall serve for one year.

65.702. For purposes of a zoning law, ordinance, or code authorized and enacted under sections 65.650 to 65.700, a zoning

or property classification of agricultural or horticultural shall include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421.

67.403. 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 enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of a nuisance including, but not limited to, debris of any kind, weed cuttings, cut, fallen, or hazardous trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material or condition which is unhealthy or unsafe and declared to be a public nuisance.

2. Any ordinance authorized by this section shall provide for service of written notice to the owner of the property and listing the nuisances, as described in subsection 1 of this section, causing the condition and ordering abatement of the condition. Unless a condition presents an immediate, specifically identified risk to the public health or safety, the notice shall provide a reasonable time, not less than ten days, in which to abate or commence removal of each condition identified in the notice. Written notice may be given by personal service or by first-class mail to the owner at the last known address of the owner. Written notice may also be given by

United States certified mail, return receipt requested, or by some other carrier and method for procuring the signature of the notice recipient.

3. Upon a failure of the owner to pursue the removal or abatement of such nuisance without unnecessary delay, the building commissioner or designated officer may cause the condition which constitutes the nuisance to be removed or abated. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal or abatement shall be recoverable. Recoverable cost shall mean any expenditure made in an effort to induce nuisance removal or abatement to occur and shall include, but not be limited to, title report fees, mailings and postings, administrative fees, and contractor fees. Such costs shall be certified to the city clerk or officer in charge of finance who shall have the option of causing the certified cost to be included in a special tax bill or added to the annual real estate tax bill.

4. A special tax bill shall be a debt against the owner of a property with a condition described in subsection 1 of this section, a lien against the property, and valid until paid, and bear interest until paid at the legal rate and may be foreclosed upon by the city through appropriate procedures in circuit court.

5. Certified costs added to the annual real estate tax bill shall not be taxes nor a municipal lien, but for collection purposes shall be an addition to the annual real estate tax bill to be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax

bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The addition to the annual real estate tax bill shall run with the land and shall not be discharged by transfer of the real estate.

6. If the nuisance is overgrown vegetation and noxious weeds which are seven inches or more in height, in lieu of giving notice as provided in subsection 3 of this section, a city may give notice as provided by this subsection. The city shall adopt an ordinance which states its weed removal policy and notification procedure. Such procedure shall provide for a minimum one-time yearly written notice by one of the methods described in subsection 2 of this section to the owner of the property. Such notice shall include the same information required in subsection 2 of this section. In addition, such notice shall include a statement that no further notice shall be given prior to removal of the weeds. If there is a change in the record owner of title to property after the giving of notice pursuant to this subsection, the city shall provide notice as required by this subsection to the new record owner of title to such property. The city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property after the change in record owner of title unless the new record owner of title to such property has been provided notice as required by this section.

89.020. 1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to

regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling or single family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. In the case of any such residential home for mentally or physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

3. No person or entity shall contract or enter into a contract which would restrict group homes or their location as described in this section from and after September 28, 1985.

4. Any county, city, town or village which has a population of at least five hundred and whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one hundred fifty miles shall have the authority to enforce its zoning laws, ordinances or codes for one hundred yards beyond the

shoreline which is adjacent to its boundaries. In the event that a lake is not large enough to allow any county, city, town or village to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline without encroaching on the enforcement powers granted another county, city, town or village under this subsection, the counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement entered into by such counties, cities, towns ~~[and]~~, or villages.

5. Should a single family dwelling or single family residence as ~~[defined]~~ described in subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this section, any other use of such home, other than allowed by local zoning restrictions, must be approved by the local zoning authority.

6. For purposes of any zoning law, ordinance or code the classification of single family dwelling or single family residence shall include any private residence licensed by the children's division or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this subsection shall be construed to relieve the children's division, the department of mental health or any other person, firm or corporation occupying or utilizing any single family dwelling or single family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number

and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single family dwelling or single family residence.

7. Any city, town, or village that is granted zoning powers under this section and is located within a county that has adopted zoning regulations under chapter 64 may enact an ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own zoning regulations.

8. For purposes of any zoning law, ordinance, or code authorized and enacted under this section, a zoning or property classification of agricultural or horticultural shall include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421.

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.

105.145. 1. The following definitions shall be applied to the terms used in this section:

(1) "Governing body", the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested;

(2) "Political subdivision", any agency or unit of this state, except counties and school districts, which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

2. The governing body of each political subdivision in the

state shall cause to be prepared an annual report of the financial transactions of the political subdivision in such summary form as the state auditor shall prescribe by rule, except that the annual report of political subdivisions whose cash receipts for the reporting period are ten thousand dollars or less shall only be required to contain the cash balance at the beginning of the reporting period, a summary of cash receipts, a summary of cash disbursements and the cash balance at the end of the reporting period.

3. Within such time following the end of the fiscal year as the state auditor shall prescribe by rule, the governing body of each political subdivision shall cause a copy of the annual financial report to be remitted to the state auditor.

4. The state auditor shall immediately on receipt of each financial report acknowledge the receipt of the report.

5. In any fiscal year no member of the governing body of any political subdivision of the state shall receive any compensation or payment of expenses after the end of the time within which the financial statement of the political subdivision is required to be filed with the state auditor and until such time as the notice from the state auditor of the filing of the annual financial report for the fiscal year has been received.

6. The state auditor shall prepare sample forms for financial reports and shall mail the same to the political subdivisions of the state. Failure of the auditor to supply such forms shall not in any way excuse any person from the performance of any duty imposed by this section.

7. All reports or financial statements herein above

mentioned shall be considered to be public records.

8. The provisions of this section apply to the board of directors of every transportation development district organized under sections 238.200 to 238.275.

9. Any political subdivision that fails to timely submit a copy of the annual financial statement to the state auditor shall be subject to a fine of five hundred dollars per day; however, the fine shall not exceed ten percent of the total sales and use tax distribution of the fiscal year for which the annual financial statement was not timely filed.

10. The state auditor shall report any violation of subsection 9 of this section to the department of revenue. Upon notification from the state auditor's office that a political subdivision failed to timely submit a copy of the annual financial statement, the department of revenue shall notify such political subdivision by certified mail that the statement has not been received. Such notice shall clearly set forth the following:

- (1) The name of the political subdivision;
- (2) That the political subdivision shall be subject to a fine of five hundred dollars per day if the political subdivision does not submit a copy of the annual financial statement to the state auditor's office within thirty days from the postmarked date stamped on the certified mail envelope;
- (3) That the fine will be enforced and collected as provided under subsection 11 of this section; and
- (4) That the fine will begin accruing on the thirty-first day from the postmarked date stamped on the certified mail

envelope and will continue to accrue until the state auditor's office receives a copy of the financial statement.

In the event a copy of the annual financial statement is received within such thirty-day period, no fine shall accrue or be imposed. The state auditor shall report receipt of the financial statement to the department of revenue within ten business days. Failure of the political subdivision to submit the required annual financial statement within such thirty-day period shall cause the fine to be collected as provided under subsection 11 of this section.

11. The department of revenue may collect the fine authorized under the provisions of subsection 9 of this section by offsetting any sales or use tax distributions due to the political subdivision. The director of revenue shall retain two percent for the cost of such collection. The remaining revenues collected from such violations shall be distributed annually to the schools of the county in the same manner that proceeds for all penalties, forfeitures, and fines collected for any breach of the penal laws of the state are distributed.

12. Any [transportation development district organized under sections 238.200 to 238.275 having] political subdivision that has gross revenues of less than five thousand dollars or that has not levied or collected sales or use taxes in the fiscal year for which the annual financial statement was not timely filed shall not be subject to the fine authorized in this section.

13. If the failure to timely submit the annual financial

statement was the result of fraud or other illegal conduct by an employee or officer of the political subdivision, the failure shall not be subject to a fine authorized under this section if the statement is filed within thirty days of the discovery of the fraud or illegal conduct. If a fine was assessed and paid prior to the filing of the statement, the department of revenue shall refund the fine upon notification from the political subdivision.

14. The director of revenue shall have the authority to make a one-time downward adjustment to any outstanding penalty imposed by this section on a single political subdivision if the director determines the fine is uncollectable. The director of revenue may prescribe rules and regulations necessary to carry out 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.

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.