

SENATE BILL NO. 720

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOSLEY.

3164S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 144.070, RSMo, and section 144.020 as enacted by senate bills nos. 153 & 97, one hundred first general assembly, first regular session, and to enact in lieu thereof two new sections relating to motor vehicle sales tax.

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

Section A. Section 144.070, RSMo, and section 144.020 as
2 enacted by senate bills nos. 153 & 97, one hundred first general
3 assembly, first regular session, are repealed and two new
4 sections enacted in lieu thereof, to be known as sections
5 144.020 and 144.070, to read as follows:

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

(1) Upon every retail sale in this state of tangible
11 personal property, excluding motor vehicles, trailers,
12 motorcycles, mopeds, motortricycles, boats and outboard
13 motors required to be titled under the laws of the state of
14 Missouri and subject to tax under subdivision (9) of this
15

16 subsection, a tax equivalent to four percent of the purchase
17 price paid or charged, or in case such sale involves the
18 exchange of property, a tax equivalent to four percent of
19 the consideration paid or charged, including the fair market
20 value of the property exchanged at the time and place of the
21 exchange, except as otherwise provided in section 144.025;

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

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

31 (4) (a) A tax equivalent to four percent on the basic
32 rate paid or charged on all sales of local and long distance
33 telecommunications service to telecommunications subscribers
34 and to others through equipment of telecommunications
35 subscribers for the transmission of messages and
36 conversations and upon the sale, rental or leasing of all
37 equipment or services pertaining or incidental thereto;
38 except that, the payment made by telecommunications
39 subscribers or others, pursuant to section 144.060, and any
40 amounts paid for access to the internet or interactive
41 computer services shall not be considered as amounts paid
42 for telecommunications services;

43 (b) If local and long distance telecommunications
44 services subject to tax under this subdivision are
45 aggregated with and not separately stated from charges for
46 telecommunications service or other services not subject to
47 tax under this subdivision, including, but not limited to,

48 interstate or international telecommunications services,
49 then the charges for nontaxable services may be subject to
50 taxation unless the telecommunications provider can identify
51 by reasonable and verifiable standards such portion of the
52 charges not subject to such tax from its books and records
53 that are kept in the regular course of business, including,
54 but not limited to, financial statement, general ledgers,
55 invoice and billing systems and reports, and reports for
56 regulatory tariffs and other regulatory matters;

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

64 (d) The director of revenue may promulgate and enforce
65 reasonable rules and regulations for the administration and
66 enforcement of the provisions of this subdivision. Any rule
67 or portion of a rule, as that term is defined in section
68 536.010, that is created under the authority delegated in
69 this section shall become effective only if it complies with
70 and is subject to all of the provisions of chapter 536 and,
71 if applicable, section 536.028. This section and chapter
72 536 are nonseverable and if any of the powers vested with
73 the general assembly pursuant to chapter 536 to review, to
74 delay the effective date, or to disapprove and annul a rule
75 are subsequently held unconstitutional, then the grant of
76 rulemaking authority and any rule proposed or adopted after
77 August 28, 2019, shall be invalid and void;

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

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

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

98 (8) A tax equivalent to four percent of the amount
99 paid or charged for rental or lease of tangible personal
100 property, provided that if the lessor or renter of any
101 tangible personal property had previously purchased the
102 property under the conditions of sale at retail or leased or
103 rented the property and the tax was paid at the time of
104 purchase, lease or rental, the lessor, sublessor, renter or
105 subrenter shall not apply or collect the tax on the
106 subsequent lease, sublease, rental or subrental receipts
107 from that property. The purchase, rental or lease of motor
108 vehicles, trailers, motorcycles, mopeds, motortricycles,
109 boats, and outboard motors shall be taxed and the tax paid

110 as provided in this section and section 144.070. In no
111 event shall the rental or lease of boats and outboard motors
112 be considered a sale, charge, or fee to, for or in places of
113 amusement, entertainment or recreation nor shall any such
114 rental or lease be subject to any tax imposed to, for, or in
115 such places of amusement, entertainment or recreation.

116 Rental and leased boats or outboard motors shall be taxed
117 under the provisions of the sales tax laws as provided under
118 such laws for motor vehicles and trailers. Tangible
119 personal property which is exempt from the sales or use tax
120 under section 144.030 upon a sale thereof is likewise exempt
121 from the sales or use tax upon the lease or rental thereof;

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

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

144.070. 1. At the time the owner of any new or used
2 motor vehicle, trailer, boat, or outboard motor which was
3 acquired in a transaction subject to sales tax under the
4 Missouri sales tax law makes application to the director of
5 revenue for an official certificate of title and the
6 registration of the motor vehicle, trailer, boat, or
7 outboard motor as otherwise provided by law, the owner shall
8 present to the director of revenue evidence satisfactory to

9 the director of revenue showing the purchase price exclusive
10 of any charge incident to the extension of credit paid by or
11 charged to the applicant in the acquisition of the motor
12 vehicle, trailer, boat, or outboard motor, or that no sales
13 tax was incurred in its acquisition, and if sales tax was
14 incurred in its acquisition, the applicant shall pay or
15 cause to be paid to the director of revenue the sales tax
16 provided by the Missouri sales tax law in addition to the
17 registration fees now or hereafter required according to
18 law, and the director of revenue shall not issue a
19 certificate of title for any new or used motor vehicle,
20 trailer, boat, or outboard motor subject to sales tax as
21 provided in the Missouri sales tax law until the tax levied
22 for the sale of the same under sections 144.010 to 144.510
23 has been paid as provided in this section or is registered
24 under the provisions of subsection 5 of this section.

25 2. As used in subsection 1 of this section, the term
26 "purchase price" shall mean the total amount of the contract
27 price agreed upon between the seller and the applicant in
28 the acquisition of the motor vehicle, trailer, boat, or
29 outboard motor, regardless of the medium of payment therefor.

30 3. In the event that the purchase price is unknown or
31 undisclosed, or that the evidence thereof is not
32 satisfactory to the director of revenue, the same shall be
33 fixed by appraisalment by the director.

34 4. The director of the department of revenue shall
35 endorse upon the official certificate of title issued by the
36 director upon such application an entry showing that such
37 sales tax has been paid or that the motor vehicle, trailer,
38 boat, or outboard motor represented by such certificate is
39 exempt from sales tax and state the ground for such
40 exemption.

41 5. Any person, company, or corporation engaged in the
42 business of renting or leasing motor vehicles, trailers,
43 boats, or outboard motors, which are to be used exclusively
44 for rental or lease purposes, and not for resale, may apply
45 to the director of revenue for authority to operate as a
46 leasing or rental company and pay an annual fee of two
47 hundred fifty dollars for such authority. Any company
48 approved by the director of revenue may pay the tax due on
49 any motor vehicle, trailer, boat, or outboard motor as
50 required in section 144.020 at the time of registration
51 thereof or in lieu thereof may pay a sales tax as provided
52 in sections 144.010, 144.020, 144.070 and 144.440. A sales
53 tax shall be charged to and paid by a leasing company which
54 does not exercise the option of paying in accordance with
55 section 144.020, on the amount charged for each rental or
56 lease agreement while the motor vehicle, trailer, boat, or
57 outboard motor is domiciled in this state. Any motor
58 vehicle, trailer, boat, or outboard motor which is leased as
59 the result of a contract executed in this state shall be
60 presumed to be domiciled in this state.

61 6. Every applicant to be a registered fleet owner as
62 described in subsections 6 to 10 of section 301.032 shall
63 furnish with the application to operate as a registered
64 fleet owner a corporate surety bond or irrevocable letter of
65 credit, as defined in section 400.5-102, issued by any state
66 or federal financial institution in the penal sum of one
67 hundred thousand dollars, on a form approved by the
68 department. The bond or irrevocable letter of credit shall
69 be conditioned upon the registered fleet owner complying
70 with the provisions of any statutes applicable to registered
71 fleet owners, and the bond shall be an indemnity for any
72 loss sustained by reason of the acts of the person bonded

73 when such acts constitute grounds for the suspension or
74 revocation of the registered fleet owner license. The bond
75 shall be executed in the name of the state of Missouri for
76 the benefit of all aggrieved parties or the irrevocable
77 letter of credit shall name the state of Missouri as the
78 beneficiary; except that, the aggregate liability of the
79 surety or financial institution to the aggrieved parties
80 shall, in no event, exceed the amount of the bond or
81 irrevocable letter of credit. The proceeds of the bond or
82 irrevocable letter of credit shall be paid upon receipt by
83 the department of a final judgment from a Missouri court of
84 competent jurisdiction against the principal and in favor of
85 an aggrieved party.

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

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

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

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

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

100 (5) Operates each of its divisions on a basis separate
101 from each of its other divisions. However, when the
102 transfer of a motor vehicle, trailer, boat or outboard motor
103 occurs within a corporation which holds a license to operate
104 as a motor vehicle or boat dealer pursuant to sections

105 301.550 to 301.573 the provisions in subdivision (3) of this
106 subsection shall not apply.

107 8. If the owner of any motor vehicle, trailer, boat,
108 or outboard motor desires to charge and collect sales tax as
109 provided in this section, the owner shall make application
110 to the director of revenue for a permit to operate as a
111 motor vehicle, trailer, boat, or outboard motor leasing
112 company. The director of revenue shall promulgate rules and
113 regulations determining the qualifications of such a
114 company, and the method of collection and reporting of sales
115 tax charged and collected. Such regulations shall apply
116 only to owners of motor vehicles, trailers, boats, or
117 outboard motors, electing to qualify as motor vehicle,
118 trailer, boat, or outboard motor leasing companies under the
119 provisions of subsection 5 of this section, and no motor
120 vehicle renting or leasing, trailer renting or leasing, or
121 boat or outboard motor renting or leasing company can come
122 under sections 144.010, 144.020, 144.070 and 144.440 unless
123 all motor vehicles, trailers, boats, and outboard motors
124 held for renting and leasing are included.

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

132 10. Beginning July 1, 2010, any motor vehicle dealer
133 licensed under section 301.560 engaged in the business of
134 selling motor vehicles or trailers may apply to the director
135 of revenue for authority to collect and remit the sales tax
136 required under this section on all motor vehicles sold by

137 the motor vehicle dealer. A motor vehicle dealer receiving
138 authority to collect and remit the tax is subject to all
139 provisions under sections 144.010 to 144.525. Any motor
140 vehicle dealer authorized to collect and remit sales taxes
141 on motor vehicles under this subsection shall be entitled to
142 deduct and retain an amount equal to two percent of the
143 motor vehicle sales tax pursuant to section 144.140. Any
144 amount of the tax collected under this subsection that is
145 retained by a motor vehicle dealer pursuant to section
146 144.140 shall not constitute state revenue. In no event
147 shall revenues from the general revenue fund or any other
148 state fund be utilized to compensate motor vehicle dealers
149 for their role in collecting and remitting sales taxes on
150 motor vehicles. In the event this subsection or any portion
151 thereof is held to violate Article IV, Section 30(b) of the
152 Missouri Constitution, no motor vehicle dealer shall be
153 authorized to collect and remit sales taxes on motor
154 vehicles under this section. No motor vehicle dealer shall
155 seek compensation from the state of Missouri or its agencies
156 if a court of competent jurisdiction declares that the
157 retention of two percent of the motor vehicle sales tax is
158 unconstitutional and orders the return of such revenues.

159 **11. (1) Beginning January 1, 2023, if any amount of**
160 **financing is extended to cover the cost of any sales tax due**
161 **under the laws of this state including, but not limited to,**
162 **local sales tax authorized under section 32.087 and state**
163 **sales tax imposed under section 144.020, for the purchase of**
164 **a motor vehicle, the financing entity shall remit such**
165 **amount directly to the appropriate taxing authority on**
166 **behalf of the purchaser. Any amounts received by the taxing**
167 **authority shall be credited towards any amount of sales tax**
168 **otherwise due to such taxing authority by the purchaser.**

169 This direct transfer requirement shall be a condition of any
170 financing agreement to purchase a motor vehicle. The
171 failure of the financing entity to properly remit funds to
172 an appropriate taxing authority shall not be a defense to
173 any claim owed by either party to the financing agreement,
174 and both parties shall be jointly liable to such taxing
175 authority for any taxes owed.

176 (2) The director of revenue may promulgate all
177 necessary rules and regulations for the administration of
178 this subsection. Any rule or portion of a rule, as that
179 term is defined in section 536.010, that is created under
180 the authority delegated in this subsection shall become
181 effective only if it complies with and is subject to all of
182 the provisions of chapter 536 and, if applicable, section
183 536.028. This subsection and chapter 536 are nonseverable,
184 and if any of the powers vested with the general assembly
185 pursuant to chapter 536 to review, to delay the effective
186 date, or to disapprove and annul a rule are subsequently
187 held unconstitutional, then the grant of rulemaking
188 authority and any rule proposed or adopted after August 28,
189 2022, shall be invalid and void.

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