

SECOND REGULAR SESSION

SENATE BILL NO. 746

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2946.01I

AN ACT

To repeal section 143.751, RSMo 1994, relating to taxation, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 143.751, RSMo 1994, is repealed and two new sections enacted in lieu thereof, to be known as sections 71.625 and 143.751, to read as follows:

71.625. The timely payment of a license tax due to any municipal corporation in this state, or any county pursuant to section 66.300, RSMo, which is delivered by United States mail to the municipality or county office designated by such municipality or county office to receive such payments, shall be deemed paid as of the postmark date stamped on the envelope or other cover in which such payment is mailed. In the event any payment of tax due is sent by registered or certified mail, the date of the registration or certification shall be deemed the postmark date. No additional tax, penalty or interest shall be imposed by any municipality or county on any taxpayer whose payment is delivered by United States mail, if the postmark date stamped on the envelope or other cover containing such payment falls within the prescribed period on or before the prescribed date, including any extension granted, for making the payment. When the last day for making any license tax payment, including extensions, falls on a Saturday, a Sunday, or a legal holiday in this state, the payment shall be considered timely if the payment is made on the next succeeding day which is not a Saturday, Sunday or legal holiday.

143.751. 1. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax an amount equal

to five percent of the deficiency. **The director shall apprise the taxpayer of the factual basis for the finding of negligence, or the specific rules or regulations disregarded, at the time the director issues a proposed assessment. Rules and regulations which have been determined to be inconsistent with the laws of this state, by either the courts of this state or the administrative hearing commission, may not be cited as the basis for an addition to tax under this section.**

2. If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to fifty percent of the deficiency. This amount shall be in lieu of any amount determined under subsection 1 of this section.

3. If any employer, without intent to evade or defeat any tax imposed by sections 143.011 to 143.996 or the payment thereof, shall fail to make a return and pay a tax withheld by him at the time required by or under the provisions of sections 143.011 to 143.996, such employer shall be liable for such taxes and shall pay the same together with interest thereon and the addition to tax provided in subsection 1 of this section, and such interest and addition to tax shall not be charged to or collected from the employee by the employer. The director of revenue shall have the same rights and powers for the collection of such tax, interest, and addition to tax against such employer as are now prescribed by sections 143.011 to 143.996 for the collection of tax against an individual taxpayer.

4. Any person required to collect, truthfully account for, and pay over the tax imposed by sections 143.011 to 143.996 who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. No addition to tax under subsections 1 and 2 of this section shall be imposed for any offense to which this subsection applies.

5. Any person who with fraudulent intent shall fail to pay, or to deduct or withhold and pay, any tax, or to make, render, sign, or certify any return, or to supply any information within the time required by or under sections 143.011 to 143.996, shall be liable to a penalty of not more than one thousand dollars, in addition to any other amounts required under sections 143.011 to 143.996, to be imposed, assessed and collected by the director of revenue.

6. For purposes of subsections 4 and 5 of this section, the term "persons" includes an individual, corporation, or partnership, or an officer or employee of any corporation (including a dissolved corporation), or a member or employee of any partnership, who, as such officer, employee, or member, is under a duty to perform the act in respect of which the violation occurs.