

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1041

AN ACT

To repeal sections 67.1360, 92.327, 92.336, 94.875 and 620.467, RSMo, relating to tourism, and to enact in lieu thereof twelve new sections relating to the same subject.

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

1 Section A. Sections 67.1360, 92.327, 92.336, 94.875 and
2 620.467, RSMo, are repealed and twelve new sections enacted in
3 lieu thereof, to be known as sections 67.1360, 67.1958, 92.327,
4 92.336, 94.875, 407.1375, 407.1378, 407.1381, 407.1384, 407.1387,
5 407.1390 and 620.467, to read as follows:

6 67.1360. The governing body of:

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

9 (2) A county with a population of over nine thousand six
10 hundred and less than twelve thousand which has a total assessed
11 valuation of at least sixty-three million dollars, if the county
12 submits the issue to the voters of such county prior to January
13 1, 2003;

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

1 than thirty thousand inhabitants;

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

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

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

16 (7) Any fourth class city having a population of more than
17 two thousand five hundred but less than three thousand
18 inhabitants in a county of the third classification having a
19 population of more than twenty-five thousand but less than
20 twenty-seven thousand inhabitants;

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

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

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

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

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

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

17 (14) Any fourth class city having a population of more than
18 two thousand eight hundred but less than three thousand one
19 hundred inhabitants in a county of the third classification with
20 a township form of government having a population of more than
21 eight thousand four hundred but less than nine thousand
22 inhabitants;

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

28 (16) Any third class city with a population of more than

1 three thousand eight hundred but less than four thousand
2 inhabitants located in a county of the third classification with
3 a population of more than fifteen thousand nine hundred but less
4 than sixteen thousand inhabitants;

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

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

17 (19) Any fourth class city with a population of more than
18 two thousand five hundred but less than two thousand six hundred
19 inhabitants located in a county of the third classification with
20 a population of more than nineteen thousand one hundred but less
21 than nineteen thousand two hundred inhabitants;

22 (20) Any county of the third classification without a
23 township form of government with a population greater than
24 sixteen thousand but less than sixteen thousand two hundred
25 inhabitants; [or]

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

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

8 may impose a tax on the charges for all sleeping rooms paid by
9 the transient guests of hotels, motels, bed and breakfast inns
10 and campgrounds and any docking facility which rents slips to
11 recreational boats which are used by transients for sleeping,
12 which shall be at least two percent, but not more than five
13 percent per occupied room per night, except that such tax shall
14 not become effective unless the governing body of the city or
15 county submits to the voters of the city or county at a state
16 general, primary or special election, a proposal to authorize the
17 governing body of the city or county to impose a tax pursuant to
18 the provisions of this section and section 67.1362. The tax
19 authorized by this section and section 67.1362 shall be in
20 addition to any charge paid to the owner or operator and shall be
21 in addition to any and all taxes imposed by law and the proceeds
22 of such tax shall be used by the city or county solely for
23 funding the promotion of tourism. Such tax shall be stated
24 separately from all other charges and taxes.

25 67.1958. A tourism community enhancement district may
26 modify the requirements of sections 67.1956 and 67.1968 by an
27 affirmative vote of the qualified voters of such district
28 provided any such modifications are placed upon and approved by

1 the qualified voters, on the same ballot as the sales tax
2 provided in section 67.1959.

3 92.327. 1. Any city may submit a proposition to the voters
4 of such city:

5 (1) A tax not to exceed [~~six~~] seven and one-half percent of
6 the amount of sales or charges for all sleeping rooms paid by the
7 transient guests of hotels, motels and tourist courts situated
8 within the city involved, and doing business within such city
9 (excluding sales tax); and

10 (2) A tax not to exceed [~~one and three-fourths~~] two percent
11 of the gross receipts derived from the retail sales of food by
12 every person operating a food establishment.

13 2. Such taxes shall be known as the "convention and tourism
14 tax" and when collected shall be deposited by the city treasurer
15 in a separate fund to be known as the "Convention and Tourism
16 Fund". The governing body of the city shall appropriate from the
17 convention and tourism fund as provided in sections 92.325 to
18 92.340.

19 92.336. The revenues received from the tax authorized under
20 sections 92.325 to 92.340 shall be used exclusively for the
21 advertising and promotion of convention and tourism business and
22 international trade for the city from which it is collected,
23 subject to the following requirements:

24 (1) Not less than forty percent of the proceeds of any tax
25 imposed pursuant to subdivision (1) of section 92.327 shall be
26 appropriated and paid to a general not for profit organization,
27 with whom the city has contracted, and which is incorporated in
28 the state of Missouri and located within the city limits of such

1 city, established for the purpose of promoting such city as a
2 convention, visitors and tourist center with the balance to be
3 used for operating expenses and capital expenditures, including
4 debt service, for sports, convention, exhibition, trade and
5 tourism facilities located within the city limits of the city;

6 (2) Not less than ten percent of the proceeds of any tax
7 imposed pursuant to subdivision (1) of section 92.327 shall be
8 appropriated to a fund that hereby shall be established and
9 called the "Neighborhood Tourist Development Fund". Such moneys
10 from said funds shall be paid to not-for-profit neighborhood
11 organizations with whom the city has contracted, and which are
12 incorporated in the state of Missouri and located within the city
13 limits of such city established for the purpose of promoting such
14 neighborhood through cultural, social, ethnic, historic,
15 educational, and recreational activities in conjunction with
16 promoting such city as [a] an international trade, convention,
17 visitors and tourist center;

18 (3) The proceeds of any tax imposed pursuant to subdivision
19 (2) of section 92.327 shall be used by the city only for capital
20 expenditures, including debt service, for sports, convention,
21 exhibition, trade and tourism facilities located within the city
22 limits of the city.

23 94.875. All taxes authorized and collected under sections
24 94.870 to 94.881 shall be deposited by the political subdivision
25 in a special trust fund to be known as the "Tourism Tax Trust
26 Fund". The moneys in such tourism tax trust fund shall not be
27 commingled with any other funds of the political subdivision
28 except as specifically provided herein. The taxes collected

1 shall be used, upon appropriation by the political subdivision,
2 solely for the purpose of constructing, maintaining, or operating
3 convention and tourism facilities, and at least twenty-five
4 percent of such taxes collected shall be used for tourism
5 marketing and promotional purposes; except that in any city with
6 a population of less than one thousand five hundred inhabitants,
7 forty percent of such taxes collected may be transferred to such
8 city's general revenue fund and the remaining thirty-five percent
9 may be used for city capital improvements, pursuant to voter
10 approval. The moneys in the tourism tax trust fund of any city
11 with a population of at least fifteen thousand located partially
12 but not wholly within a county of the third classification with a
13 population of at least thirty-nine thousand inhabitants shall be
14 used solely for tourism marketing and promotional purposes. The
15 tax authorized by section 94.870 shall be in addition to any and
16 all other sales taxes allowed by law, but no ordinance or order
17 imposing a tax under section 94.870 shall be effective unless the
18 governing body of the political subdivision submits to the voters
19 of the political subdivision at a municipal or state general,
20 primary, or special election a proposal to authorize the
21 governing body of the political subdivision to impose such tax.

22 407.1375. As used in sections 407.1375 to 407.1390 the
23 phrase "engaged in the business of selling prearranged travel-
24 related or tourist-related services", includes but is not limited
25 to, selling or entering into contracts or other arrangement under
26 which a purchaser receives a premium, coupon or contract for car
27 rentals, lodging, transfers, entertainment, sightseeing or any
28 service reasonably related to air, sea, rail, motor coach or

1 other medium of transportation directly to the consumer.

2 407.1378. 1. Any corporation, association, cooperative,
3 partnership, limited liability partnership or limited liability
4 company, foreign or domestic, engaged in the business of selling
5 prearranged travel-related or tourist-related services in this
6 state shall keep its registration or certificate of authority to
7 do business in this state with the secretary of state current and
8 in good standing pursuant to the applicable provisions of
9 chapters 347, 351, 355, 356, 357, 358 and 359, RSMo.

10 2. Any person or entity engaged in the business of selling
11 prearranged travel-related or tourist-related services in this
12 state which is required to register a fictitious name pursuant to
13 the provisions of chapter 417, RSMo, shall keep the information
14 on file with the secretary of state pursuant to such registration
15 current.

16 407.1381. 1. Before entering into any contract or
17 agreement to sell prearranged travel-related or tourist-related
18 services, every seller of prearranged travel-related or tourist-
19 related services shall file and maintain with the office of the
20 attorney general a bond with corporate surety from a company
21 authorized to transact business in this state or a letter of
22 credit from a bank insured by the Federal Deposit Insurance
23 Corporation in the amount of fifty thousand dollars or one
24 hundred thousand dollars before the seller enters into any
25 contract or agreement for services with a group of more than
26 twenty purchasers. Such bond will be renewed annually.

27 2. At the time of the filing of the bond or letter of
28 credit, every seller of prearranged travel-related or tourist-

1 related services shall, using a form prescribed by the attorney
2 general, furnish the attorney general with the following
3 information:

4 (1) Name of the company, including business address and
5 phone number;

6 (2) Name or names of the principals of the business; and

7 (3) Any other information that the attorney general deems
8 necessary.

9 3. In lieu of the bond or letter of credit required by
10 subsections 1 and 2 of this section, a seller of prearranged
11 travel services may provide annually to the attorney general,
12 proof that it carries a current insurance policy insuring its
13 customers against non-performance covering losses in the amount
14 of at least one hundred thousand dollars.

15 407.1384. 1. The bond or letter of credit required by
16 section 407.1381 shall be in favor of the state of Missouri for
17 the benefit of any private claimant who suffers a loss as a
18 result of a violation of sections 407.1375 to 407.1390.

19 2. The aggregate liability of the bond or letter of credit
20 to all persons for all breaches of the conditions of the bond or
21 letter of credit shall in no event exceed one hundred thousand
22 dollars. If the amount of claim against the bond or letter of
23 credit exceeds fifty thousand dollars, or one hundred thousand
24 dollars for a claim on a contract for services with a group of
25 more than twenty purchasers, for those claims shall be paid pro
26 rata to the claimants. No bond or letter of credit shall be
27 cancelled or terminated except with the consent of the attorney
28 general.

1 3. The remedies available in this section are cumulative
2 and in addition to any other remedies available by law.

3 407.1387. 1. Any purchaser of prearranged travel-related
4 or tourist-related services may rescind such purchase by giving
5 written notice any time before midnight of the fifteenth business
6 day following the date on which the purchase was made except when
7 such purchase of merchandise or services would be provided within
8 the rescission period. Such cancellation shall be without
9 liability on the part of the purchaser and shall entitle the
10 purchaser to a refund of the entire consideration paid for the
11 contract minus any nonrefundable deposit that cannot be recovered
12 from the tourist-related services provider.

13 2. Notice of cancellation shall be in writing and delivered
14 personally or by mail. If given by mail, the notice is effective
15 upon deposit in a mailbox, properly addressed and postage paid.
16 Notice of cancellation need not take a particular form and is
17 sufficient if it indicates, by any form of written expression,
18 the intention of the purchaser not to be bound by the contract.
19 If delivered personally, the notice is to be accepted by any
20 agent or employee of the seller, and a receipt for the notice
21 must be given by that agent or employee to the person rescinding.

22 3. The entitled refund shall be delivered to the purchaser
23 within fourteen days after notice of rescission is given.

24 4. Rights of rescission may not be waived or otherwise
25 surrendered.

26 5. Rescission shall not relieve the purchaser from paying
27 for any merchandise or services received prior to the date of
28 rescission.

1 407.1390. 1. Violation of any provision of sections
2 407.1375 to 407.1390 shall be deemed an unlawful practice
3 pursuant to sections 407.010 to 407.130, and shall be subject to
4 all penalties, remedies and procedures provided in sections
5 407.010 to 407.130. The attorney general shall have all powers,
6 rights and duties regarding violations of sections 407.1375 to
7 407.1390 as are provided in sections 407.010 to 407.130 and shall
8 have the rulemaking authority as provided in section 407.145.

9 2. Any rule or portion of a rule, as that term is defined
10 in section 536.010, RSMo, that is created under the authority
11 delegated in this section shall become effective only if it
12 complies with and is subject to all of the provisions of chapter
13 536, RSMo, and, if applicable, section 536.028, RSMo. This
14 section and chapter 536, RSMo, are nonseverable and if any of the
15 powers vested with the general assembly pursuant to chapter 536,
16 RSMo, to review, to delay the effective date or to disapprove and
17 annul a rule are subsequently held unconstitutional, then the
18 grant of rulemaking authority and any rule proposed or adopted
19 after August 28, 2002, shall be invalid and void.

20 620.467. 1. The state treasurer shall annually [transfer]
21 deposit an amount prescribed in this section out of the general
22 revenue fund pursuant to section 144.700, RSMo, in a fund hereby
23 created in the state treasury, to be known as the "Division of
24 Tourism Supplemental Revenue Fund". The state treasurer shall
25 administer the fund, and the moneys in such fund, except the
26 appropriate percentage of any refund made of taxes collected
27 under the provisions of chapter 144, RSMo, shall be used solely
28 by the division of tourism of the department of economic

1 development to carry out the duties and functions of the division
2 as prescribed by law. Moneys [transferred to] deposited in the
3 division of tourism supplemental revenue fund shall be in
4 addition to a budget base in each fiscal year. For fiscal year
5 1994, such budget base shall be six million two hundred thousand
6 dollars, and in each succeeding fiscal year the budget base shall
7 be the prior fiscal year's general revenue base plus any
8 additional appropriations made to the division of tourism,
9 including one hundred percent of the prior fiscal year's
10 [transfers] deposits made to the division of tourism supplemental
11 revenue fund pursuant to this section. The general revenue base
12 shall decrease by ten percent in each fiscal year following
13 fiscal year 1994. Notwithstanding the provisions of section
14 33.080, RSMo, to the contrary, moneys in the division of tourism
15 supplemental revenue fund at the end of any biennium shall not be
16 [transferred] deposited to the credit of the general revenue
17 fund.

18 2. In fiscal years 1995 to 2010, a portion of general
19 revenue determined pursuant to this subsection, shall be
20 [transferred] deposited to the credit of the division of tourism
21 supplemental revenue fund pursuant to subsection 1 of this
22 section. The director of revenue shall determine the amount
23 [transferred] deposited to the credit of the division of tourism
24 supplemental revenue fund in each fiscal year by computing the
25 previous year's total appropriation into the division of tourism
26 supplemental revenue fund and adding to such appropriation amount
27 the total amount derived from the retail sale of tourist-oriented
28 goods and services collected pursuant to the following sales

1 taxes: state sales taxes; sales taxes collected pursuant to
2 sections 144.010 to 144.430, RSMo, that are designated as local
3 tax revenue to be deposited in the school district trust fund
4 pursuant to section 144.701, RSMo; sales taxes collected pursuant
5 to section 43(a) of article IV of the Missouri Constitution; and
6 sales taxes collected pursuant to section 47(a) of article IV of
7 the Missouri Constitution. If the increase in such sales taxes
8 derived from the retail sale of tourist-oriented goods and
9 services in the fiscal year three years prior to the fiscal year
10 in which each [transfer] deposit shall be made is at least three
11 percent over such sales taxes derived from the retail sale of
12 tourist-oriented goods and services generated in the fiscal year
13 four years prior to the fiscal year in which each [transfer]
14 deposit shall be made, an amount equal to one-half of such sales
15 taxes generated above a three percent increase shall be
16 calculated by the director of revenue and the amount calculated
17 shall be [transferred] deposited by the state treasurer to the
18 credit of the division of tourism supplemental revenue fund.

19 3. Total [transfers to] deposits in the supplemental
20 revenue fund in any fiscal year pursuant to subsections 1 and 2
21 of this section shall not exceed the amount [transferred]
22 deposited into the division of tourism supplemental revenue fund
23 in the fiscal year immediately preceding the current fiscal year
24 by more than three million dollars.

25 4. As used in this section, "sales of tourism-oriented
26 goods and services", are those sales by businesses registered
27 with the department of revenue under the following SIC Codes:

28 (1) SIC Code 5811;

- 1 (2) SIC Code 5812;
- 2 (3) SIC Code 5813;
- 3 (4) SIC Code 7010;
- 4 (5) SIC Code 7020;
- 5 (6) SIC Code 7030;
- 6 (7) SIC Code 7033;
- 7 (8) SIC Code 7041;
- 8 (9) SIC Code 7920;
- 9 (10) SIC Code 7940;
- 10 (11) SIC Code 7990;
- 11 (12) SIC Code 7991;
- 12 (13) SIC Code 7992;
- 13 (14) SIC Code 7996;
- 14 (15) SIC Code 7998;
- 15 (16) SIC Code 7999; and
- 16 (17) SIC Code 8420.

17 5. Prior to each appropriation from the division of tourism
18 supplemental revenue fund, the division of tourism shall present
19 to the committee on tourism, recreational and cultural affairs of
20 the house of representatives and to the transportation and
21 tourism committee of the senate, or their successors, a
22 promotional marketing strategy including, but not limited to,
23 targeted markets, duration of market plans, ensuing market
24 strategies, and the actual and estimated investment return, if
25 any, resulting therefrom.

26 6. This section shall become effective July 1, 1994. This
27 section shall expire June 30, 2010.