

FIRST REGULAR SESSION

# HOUSE BILL NO. 703

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES JONES (89) (Sponsor), STORCH, TILLEY, SCHARNHORST,  
NIEVES AND CALLOWAY (Co-sponsors).

0026L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 32.063, 136.055, 144.025, 144.060, 144.070, 144.080, 144.130, and 144.100, RSMo, and to enact in lieu thereof ten new sections relating to motor vehicle sales taxes, with penalty provisions.

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

Section A. Sections 32.063, 136.055, 144.025, 144.060, 144.070, 144.080, 144.130, and  
2 144.100, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as  
3 sections 32.063, 32.095, 136.055, 144.025, 144.060, 144.070, 144.080, 144.100, 144.130, and  
4 144.145, to read as follows:

32.063. 1. The director of revenue[, his] **and the director's** employees or agents may  
2 accept credit cards in payment of taxes and fees. The type of credit cards accepted shall be at the  
3 discretion of the director.

4 2. In addition to other fees provided by law, the director of revenue **and the director's**  
5 **employees or agents** may set a fee to be added to each credit card transaction equal to the charge  
6 paid by the state or the taxpayer for the use of the credit card by the taxpayer. No other fees shall  
7 be imposed other than those herein authorized.

**32.095. Beginning January 1, 2012, the director of the department of revenue may**  
2 **select or appoint any boat dealer or motor vehicle dealer, as such terms are defined in**  
3 **chapter 301, RSMo, to act as an agent of the department of revenue for the purpose of**  
4 **registering and licensing of motor vehicles and trailers under chapter 301, RSMo, titling**  
5 **and registering boats, vessels, and outboard motors under chapter 306, RSMo, and**  
6 **collecting motor vehicle sales and use taxes under sections 136.055, 144.070, and 144.440,**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 **RSMo. Such boat dealers or motor vehicle dealers shall only act as an agent under this**  
8 **section for an initial sale or lease of a motor vehicle, trailer, boat, or outboard motor, but**  
9 **shall not act as an agent under this section for any subsequent registration under chapter**  
10 **301 or 306, RSMo.**

136.055. 1. Any person who is selected or appointed by the state director of revenue to  
2 act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle  
3 licenses and the collection of motor vehicle sales and use taxes **when required** under [the  
4 provisions of section] **sections 144.070 and 144.440**, RSMo, and who receives no salary from  
5 the department of revenue, shall be authorized to collect from the party requiring such services  
6 additional fees as compensation in full and for all services rendered on the following basis:

7 (1) For each motor vehicle or trailer license sold, renewed or transferred--two dollars and  
8 fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars  
9 beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147,  
10 RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or  
11 transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially  
12 renewed pursuant to section 301.147, RSMo;

13 (2) For each application or transfer of title--two dollars and fifty cents beginning January  
14 1, 1998;

15 (3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's  
16 license issued for a period of three years or less--two dollars and fifty cents and five dollars for  
17 licenses or instruction permits issued or renewed for a period exceeding three years;

18 (4) For each notice of lien processed--two dollars and fifty cents beginning August 28,  
19 2000;

20 (5) No notary fee or other fee or additional charge shall be paid or collected except for  
21 electronic telephone transmission reception--two dollars.

22 2. All fees charged shall not exceed those in this section. Beginning July 1, 2003, the  
23 fees imposed by this section shall be collected by all permanent branch offices and all full-time  
24 or temporary offices maintained by the department of revenue.

25 3. Any person acting as agent of the department of revenue for the sale and issuance of  
26 licenses and other documents related to motor vehicles shall have an insurable interest in all  
27 license plates, licenses, tabs, forms and other documents held on behalf of the department.

28 4. The fee increases authorized by this section and approved by the general assembly  
29 were requested by the fee agents. All fee agent offices, **excluding boat dealers or motor**  
30 **vehicle dealers acting as agents of the department of revenue under section 32.095, RSMo,**  
31 shall display a three foot by four foot sign with black letters of at least three inches in height on  
32 a white background which states:

33           The increased fees approved by the  
34           Missouri Legislature and charged by  
35           this fee office were requested by the  
36           fee agents.

144.025. 1. Notwithstanding any other provisions of law to the contrary, in any retail  
2 sale other than retail sales governed by subsections 4 and 5 of this section, where any article on  
3 which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or  
4 excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price  
5 of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed  
6 only on that portion of the purchase price which exceeds the actual allowance made for the  
7 article traded in or exchanged, if there is a bill of sale or other record showing the actual  
8 allowance made for the article traded in or exchanged. Where the purchaser of a motor vehicle,  
9 trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed  
10 by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price  
11 which exceeds the amount of the rebate, if there is a bill of sale or other record showing the  
12 actual rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus  
13 any applicable rebate exceeds the purchase price of the purchased article there shall be no sales  
14 or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard  
15 motors sold by the owner or holder of the properly assigned certificate of ownership if the seller  
16 purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor  
17 within one hundred eighty days before or after the date of the sale of the original article and a bill  
18 of sale showing the paid sale price is presented to the department of revenue at the time of  
19 licensing. **Notwithstanding the paid sale price presented, the director of the department**  
20 **of revenue shall impose the tax computed on the sale price of no less than eighty percent**  
21 **of the value of the subsequent motor vehicle, trailer, boat, or outboard motor. As used in**  
22 **this subsection, the term "value" means the average trade-in value as evidenced by the**  
23 **current volume of the National Automobile Dealers Association's Official Used Car Guide,**  
24 **Central Edition, at the time of sale.** A copy of the bill of sale shall be left with the licensing  
25 office. Where the subsequent motor vehicle, trailer, boat, or outboard motor is titled more than  
26 one hundred eighty days after the sale of the original motor vehicle, trailer, boat, or outboard  
27 motor, the allowance pursuant to this section shall be made if the person titling such article  
28 establishes that the purchase or contract to purchase was finalized prior to the expiration of the  
29 one hundred eighty-day period.

30           2. As used in this section, the term "boat" includes all motorboats and vessels, as the  
31 terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

32           3. As used in this section, the term "motor vehicle" includes motor vehicles as defined  
33 in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a  
34 combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section  
35 301.010, RSMo.

36           4. The provisions of subsection 1 of this section shall not apply to retail sales of  
37 manufactured homes in which the purchaser receives a document known as the "Manufacturer's  
38 Statement of Origin" for purposes of obtaining a title to the manufactured home from the  
39 department of revenue of this state or from the appropriate agency or officer of any other state.

40           5. Any purchaser of a motor vehicle or trailer used for agricultural use by the purchaser  
41 shall be allowed to use as an allowance to offset the sales and use tax liability towards the  
42 purchase of the motor vehicle or trailer any grain or livestock produced or raised by the  
43 purchaser. The director of revenue may prescribe forms for compliance with this subsection.

144.060. It shall be the duty of every person making any purchase or receiving any  
2 service upon which a tax is imposed by sections 144.010 to 144.510 to pay, to the extent possible  
3 under the provisions of section 144.285, the amount of such tax to the person making such sale  
4 or rendering such service[;]. Any person who shall willfully and intentionally refuse to pay such  
5 tax shall be guilty of a misdemeanor[; provided, however, that]. The provisions of this section  
6 shall not apply to any person making any purchase or sale of a motor vehicle subject to sales tax  
7 as provided by the Missouri sales tax law, **unless such person making the sale is a boat dealer**  
8 **or motor vehicle dealer acting as an agent of the department of revenue under section**  
9 **32.095, RSMo.**

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or  
2 outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales  
3 tax law makes application to the director of revenue for an official certificate of title and the  
4 registration of the [automobile] **motor vehicle**, trailer, boat, or outboard motor as otherwise  
5 provided by law, [he] **the owner** shall present to the director of revenue evidence satisfactory  
6 to the director of revenue showing the purchase price exclusive of any charge incident to the  
7 extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle,  
8 trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales  
9 tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of  
10 revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees  
11 now or hereafter required according to law, and the director of revenue shall not issue a  
12 certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to  
13 sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same  
14 under sections 144.010 to 144.510 has been paid as [herein] provided **in this section** or is  
15 registered under the provisions of subsection 5 of this section.

16           2. As used [above] **in subsection 1 of this section**, the term "purchase price" shall mean  
17 [the total amount of the contract price agreed upon between the seller and the applicant in the  
18 acquisition] **not less than eighty percent of the value** of the motor vehicle, trailer, boat, or  
19 outboard motor[, regardless of the medium of payment therefor] **for all nonretail transactions.**  
20 **For retail transactions, "purchase price" means the total amount of the contract price**  
21 **agreed upon between the seller and the applicant in the acquisition.**

22           3. In the event that the purchase price is unknown or undisclosed, or that the evidence  
23 thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by  
24 the director.

25           4. The director of the department of revenue shall endorse upon the official certificate  
26 of title issued by [him] **the director** upon such application an entry showing that such sales tax  
27 has been paid or that the **motor** vehicle, trailer, boat, or outboard motor represented by such  
28 certificate is exempt from sales tax and state the ground for such exemption.

29           5. Any person, company, or corporation engaged in the business of renting or leasing  
30 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental  
31 or lease purposes, and not for resale, may apply to the director of revenue for authority to operate  
32 as a leasing company. Any company approved by the director of revenue may pay the tax due  
33 on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time  
34 of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010,  
35 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company  
36 which does not exercise the option of paying in accordance with section 144.020, on the amount  
37 charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard  
38 motor is domiciled in this state. Any motor vehicle, boat, or outboard motor which is leased as  
39 the result of a contract executed in this state shall be presumed to be domiciled in this state.

40           6. Any corporation may have one or more of its divisions separately apply to the director  
41 of revenue for authorization to operate as a leasing company, provided that the corporation:

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

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

45           (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from  
46 one of its divisions to another of its divisions as a sale at retail within the meaning of subdivision  
47 (9) of subsection 1 of section 144.010;

48           (4) Has registered under the fictitious name provisions of sections 417.200 to 417.230,  
49 RSMo, each of its divisions doing business in Missouri as a leasing company; and

50           (5) Operates each of its divisions on a basis separate from each of its other divisions.  
51 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a

52 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to  
53 sections 301.550 to [301.575] **301.573**, RSMo, the provisions in subdivision (3) of this  
54 subsection shall not apply.

55 7. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge  
56 and collect sales tax as provided [hereinabove] **in this section**, [he] **the owner** shall make  
57 application to the director of revenue for a permit to operate as a motor vehicle, trailer, boat, or  
58 outboard motor leasing company. The director of revenue shall promulgate rules and regulations  
59 determining the qualifications of such a company, and the method of collection and reporting of  
60 sales tax charged and collected. Such regulations shall apply only to owners of motor vehicles,  
61 trailers, boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard  
62 motor leasing companies under the provisions of subsection 5 of this section, and no motor  
63 vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or leasing  
64 company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all **motor**  
65 vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

144.080. 1. Every person receiving any payment or consideration upon the sale of  
2 property or rendering of service, subject to the tax imposed by the provisions of sections 144.010  
3 to 144.525, is exercising the taxable privilege of selling the property or rendering the service at  
4 retail and is subject to the tax levied in section 144.020. The person shall be responsible not only  
5 for the collection of the amount of the tax imposed on the sale or service to the extent possible  
6 under the provisions of section 144.285, but shall, on or before the last day of the month  
7 following each calendar quarterly period of three months, file a return with the director of  
8 revenue showing the person's gross receipts and the amount of tax levied in section 144.020 for  
9 the preceding quarter, and shall remit to the director of revenue, with the return, the taxes levied  
10 in section 144.020, except as provided in subsections 2 and 3 of this section. The director of  
11 revenue may promulgate rules or regulations changing the filing and payment requirements of  
12 sellers, but shall not require any seller to file and pay more frequently than required in this  
13 section.

14 2. **(1)** Where the aggregate amount levied and imposed upon a seller by section 144.020  
15 is in excess of two hundred and fifty dollars for either the first or second month of a calendar  
16 quarter, the seller shall file a return and pay such aggregate amount for such months to the  
17 director of revenue by the twentieth day of the succeeding month.

18 **(2) Beginning January 1, 2012, timely remittance of such aggregate amount shall**  
19 **be determined under this subdivision. Failure of a seller to remit such aggregate amount**  
20 **timely shall result in a one thousand dollar late or insufficiency penalty. Failure of a seller**  
21 **to remit such aggregate amount plus penalty within ten business days of the original due**  
22 **date in this subsection, or in the case of a subsequent insufficiency or untimely remittance**

23 **within any twelve-month period, shall result in a five thousand dollar penalty. Failure of**  
24 **a seller to remit such aggregate amount plus penalty within twenty business days or the**  
25 **original due date in this subsection, or in the case of a third insufficiency or untimely**  
26 **remittance within any twelve- month period, shall result in a ten thousand dollar penalty.**  
27 **Failure of a seller to remit such aggregate amount plus penalty within thirty business days**  
28 **of the original due date in this subsection, or in the case of a fourth insufficiency or**  
29 **untimely remittance within any twelve-month period, shall result in the suspension or**  
30 **revocation of any and all specific licenses required to conduct business in this state until**  
31 **such time as all remittance and penalties, including any reinstatement fees, have been fully**  
32 **satisfied. Any seller causing the department of revenue to exercise suspension or**  
33 **revocation of any business license required by this state a second time shall forfeit the**  
34 **seller's specific license to transact business in this state indefinitely. The department of**  
35 **revenue may electronically survey all motor vehicle dealer accounts to determine if any**  
36 **sales tax payments on the purchase of motor vehicles, trailers, boats, or outboard motors**  
37 **have not been timely remitted.**

38         3. Where the aggregate amount levied and imposed upon a seller by section 144.020 is  
39 less than forty-five dollars in a calendar quarter, the director of revenue shall by regulation permit  
40 the seller to file a return for a calendar year. The return shall be filed and the taxes paid on or  
41 before January thirty-first of the succeeding year. **Beginning January 1, 2012, the department**  
42 **of revenue shall issue a credit on the succeeding quarterly required remittance and return**  
43 **to a seller any amounts remitted for satisfying and returning any tax obligation on behalf**  
44 **of a purchaser causing a credit card reversal or presenting insufficient monetary**  
45 **instruments for the tax imposed by section 144.020.**

46         4. The seller of any property or person rendering any service, subject to the tax imposed  
47 by sections 144.010 to 144.525, shall collect the tax from the purchaser of such property or the  
48 recipient of the service to the extent possible under the provisions of section 144.285, but the  
49 seller's inability to collect any part or all of the tax does not relieve the seller of the obligation  
50 to pay to the state the tax imposed by section 144.020; except that the collection of the tax  
51 imposed by sections 144.010 to 144.525 on motor vehicles and trailers shall be made as provided  
52 in sections 144.070 and 144.440.

53         5. It shall be unlawful for any person to advertise or hold out or state to the public or to  
54 any customer directly or indirectly that the tax or any part thereof imposed by sections 144.010  
55 to 144.525, and required to be collected by the person, will be assumed or absorbed by the  
56 person, or that it will not be separately stated and added to the selling price of the property sold  
57 or service rendered, or if added, that it or any part thereof will be refunded. Any person violating  
58 any of the provisions of this section shall be guilty of a misdemeanor.

144.100. 1. **On or before January 1, 2012**, every person making any taxable sales of  
2 property or service, except transactions provided for in sections 144.070 and 144.440,  
3 individually or by duly authorized officer or agent, shall make and file a written return with the  
4 director of revenue in such manner as [he] **the director** may prescribe. **Beginning January 1,**  
5 **2012, every person making any taxable sales of property or service, individually or by duly**  
6 **authorized officer or agent, shall make and file a written return with the director of**  
7 **revenue in such manner as the director may prescribe.**

8 2. The returns shall be on blanks designed and furnished by the director of the  
9 department of revenue and shall be filed at the times provided in sections 144.080 and 144.090.  
10 The returns shall show the amount of gross receipts from sales of taxable property and services  
11 by the person and the amount of tax due thereon by that person during and for the period covered  
12 by the return. With each return, the person shall remit to the director of revenue the full amount  
13 of the tax due.

14 3. In case of charge and time sales the gross receipts thereof shall be included as sales  
15 in the returns as and when payments are received by the person, without any deduction therefrom  
16 whatsoever.

17 4. If an error or omission is discovered in a return or a change be necessary to show the  
18 true facts, the error may be corrected, the omission supplied, or the change made in the return  
19 next filed with the director for the filing period immediately following the filing period in which  
20 the error was made or the omission occurred, as prescribed by law, except that no refund under  
21 this chapter shall be allowed for any amount of tax paid by a seller which is based upon charges  
22 incident to credit card discounts. Any other omission or error [must] **shall** be corrected by filing  
23 an amended return for the erroneously reported period if the amount of tax is less than that  
24 originally reported, or an additional return if the amount of tax is greater than that originally  
25 reported. An additional return shall be deemed filed on the date the envelope in which it is  
26 mailed is postmarked or the date it is received by the director, whichever is earlier. Any payment  
27 of tax, interest, penalty or additions to tax shall be deemed filed on the date the envelope  
28 containing the payment is postmarked or the date the payment is received by the director,  
29 whichever is earlier. If a refund or credit results from the filing of an amended return, no refund  
30 or credit shall be allowed unless an application for refund or credit is properly completed and  
31 submitted to the director pursuant to section 144.190.

32 5. The amount of gross receipts from sales and the amount of tax due returned by the  
33 person, as well as all matters contained in the return, is subject to review and revision in the  
34 manner herein provided for the correction of the returns.

144.130. Refunds made by the person during the preceding calendar month or calendar  
2 quarter, **or in the case of a motor vehicle purchase, then during the preceding twenty-four**

3 **month calendar**, to purchasers, on account of tangible personal property, substances, services  
4 [and] , things, **and motor vehicles** returned to the persons shall be allowed as a deduction from  
5 the gross receipts required to be stated in the returns filed with the director of revenue; provided,  
6 the person had theretofore included [the said] **such** refunded receipts in a return made by such  
7 person and had paid the amount imposed by sections 144.010 to 144.510 with respect thereto;  
8 provided, the seller has returned to the purchaser any and all tax previously paid by the purchaser  
9 at the time of the purchase. **However, when the seller is a dealer as defined in section**  
10 **301.010, RSMo, or when the sale was financed by a financial institution as defined in**  
11 **section 404.007, RSMo, and the tangible personal property, substances, services, things, or**  
12 **motor vehicle is repossessed, the provision of this section requiring that the seller has**  
13 **returned to the purchaser any and all tax previously paid by the purchaser at the time of**  
14 **the purchase does not apply.**

144.145. **Beginning January 1, 2012, any person licensed by the director of revenue**  
2 **under chapter 301, RSMo, as a new or used boat dealer or motor vehicle dealer may collect**  
3 **and remit sales and use tax under the provisions of this chapter, at the time of sale on all**  
4 **motor vehicles, trailers, boats, or outboard motors sold by the licensed dealership. Such**  
5 **person shall receive no salary from the department of revenue, but shall be allowed to**  
6 **retain any amount authorized by section 144.140. If any such boat dealer or motor vehicle**  
7 **dealer elects to collect and remit sales and use tax under this section. The director of**  
8 **revenue may promulgate rules to administer the provisions of this section. Any rule or**  
9 **portion of a rule, as that term is defined in section 536.010, RSMo, that is created under**  
10 **the authority delegated in this section shall become effective only if it complies with and**  
11 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**  
12 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**  
13 **vested with the general assembly under chapter 536, RSMo, to review, to delay the effective**  
14 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
15 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2009,**  
16 **shall be invalid and void.**

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