

FIRST REGULAR SESSION

HOUSE BILL NO. 446

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLISH.

0103H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 144.020 and 144.070, RSMo, and to enact in lieu thereof two new sections relating to sales tax on motor vehicles.

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

Section A. Sections 144.020 and 144.070, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 144.020 and 144.070, to read as follows:

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

7 (1) Upon every retail sale in this state of tangible personal property, excluding motor
8 vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to
9 be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this
10 subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such
11 sale involves the exchange of property, a tax equivalent to four percent of the consideration paid
12 or charged, including the fair market value of the property exchanged at the time and place of
13 the exchange, except as otherwise provided in section 144.025;

14 (2) A tax equivalent to four percent of the amount paid for admission and seating
15 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,
16 games and athletic events;

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.

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

20 (4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local
21 and long distance telecommunications service to telecommunications subscribers and to others
22 through equipment of telecommunications subscribers for the transmission of messages and
23 conversations and upon the sale, rental or leasing of all equipment or services pertaining or
24 incidental thereto; except that, the payment made by telecommunications subscribers or others,
25 pursuant to section 144.060, and any amounts paid for access to the internet or interactive
26 computer services shall not be considered as amounts paid for telecommunications services;

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

29 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
30 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
31 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
32 regularly served to the public;

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

38 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
39 tangible personal property, provided that if the lessor or renter of any tangible personal property
40 had previously purchased the property under the conditions of "sale at retail" or leased or rented
41 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
42 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
43 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
44 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
45 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
46 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
47 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,
48 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
49 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
50 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
51 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
52 upon the lease or rental thereof;

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

58 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525
59 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the
60 words "This ticket is subject to a sales tax."

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

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

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

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

27 5. Any person, company, or corporation engaged in the business of renting or leasing
28 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental

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

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

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

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

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

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

48 (5) Operates each of its divisions on a basis separate from each of its other divisions.
49 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a
50 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to
51 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not apply.

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

63 8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560
64 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue

65 for authority to collect and remit the sales tax required under this section on all motor vehicles
66 sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit
67 the tax is subject to all provisions under sections 144.010 to 144.525. Any motor vehicle dealer
68 authorized to collect and remit sales taxes on motor vehicles under this subsection shall be
69 entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax
70 pursuant to section 144.140. Any amount of the tax collected under this subsection that is
71 retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue.
72 In no event shall revenues from the general revenue fund or any other state fund be utilized to
73 compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor
74 vehicles. In the event this subsection or any portion thereof is held to violate article IV, section
75 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and
76 remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek
77 compensation from the state of Missouri or its agencies if a court of competent jurisdiction
78 declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and
79 orders the return of such revenues.

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