

SECOND REGULAR SESSION

# HOUSE BILL NO. 1615

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARINGER.

3049H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 144.020 and 144.070, RSMo, 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Section A. Sections 144.020 and 144.070, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 144.020 and 144.070, to read as follows: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 motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be titled under the laws of the state of Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

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

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

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) A tax equivalent to four percent on the basic rate paid or charged on all sales of  
21 local and long distance telecommunications service to telecommunications subscribers and to  
22 others through equipment of telecommunications subscribers for the transmission of messages  
23 and 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 (b) If local and long distance telecommunications services subject to tax under this  
28 subdivision are aggregated with and not separately stated from charges for telecommunications  
29 service or other services not subject to tax under this subdivision, including, but not limited to,  
30 interstate or international telecommunications services, then the charges for nontaxable services  
31 may be subject to taxation unless the telecommunications provider can identify by reasonable  
32 and verifiable standards such portion of the charges not subject to such tax from its books and  
33 records that are kept in the regular course of business, including, but not limited to, financial  
34 statement, general ledgers, invoice and billing systems and reports, and reports for regulatory  
35 tariffs and other regulatory matters;

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

41 (d) The director of revenue may promulgate and enforce reasonable rules and regulations  
42 for the administration and enforcement of the provisions of this subdivision. Any rule or portion  
43 of a rule, as that term is defined in section 536.010, that is created under the authority delegated  
44 in this section shall become effective only if it complies with and is subject to all of the  
45 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
46 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536  
47 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
48 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
49 August 28, 2019, shall be invalid and void;

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

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

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

64 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of  
65 tangible personal property, provided that if the lessor or renter of any tangible personal property  
66 had previously purchased the property under the conditions of sale at retail or leased or rented  
67 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,  
68 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or  
69 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,  
70 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid  
71 as provided in this section and section 144.070. In no event shall the rental or lease of boats and  
72 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,  
73 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,  
74 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or  
75 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such  
76 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales  
77 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax  
78 upon the lease or rental thereof;

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

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

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

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

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

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

5. Any person, company, or corporation engaged in the business of renting or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental or lease purposes, and not for resale, may apply to the director of revenue for authority to operate as a leasing or rental company and pay an annual fee of two hundred fifty dollars for such authority. Any company approved by the director of revenue may pay the tax due on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not exercise the option of paying in accordance with section 144.020, on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is

37 domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor which is leased as  
38 the result of a contract executed in this state shall be presumed to be domiciled in this state.

39         6. Every applicant to be a lease or rental company shall furnish with the application a  
40 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued by  
41 any state or federal financial institution in the penal sum of one hundred thousand dollars, on a  
42 form approved by the department. The bond or irrevocable letter of credit shall be conditioned  
43 upon the lease or rental company complying with the provisions of any statutes applicable to  
44 lease or rental companies, and the bond shall be an indemnity for any loss sustained by reason  
45 of the acts of the person bonded when such acts constitute grounds for the suspension or  
46 revocation of the lease or rental license. The bond shall be executed in the name of the state of  
47 Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the  
48 state of Missouri as the beneficiary; except that, the aggregate liability of the surety or financial  
49 institution to the aggrieved parties shall, in no event, exceed the amount of the bond or  
50 irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid  
51 upon receipt by the department of a final judgment from a Missouri court of competent  
52 jurisdiction against the principal and in favor of an aggrieved party.

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

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

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

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

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

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

66         8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge  
67 and collect sales tax as provided in this section, the owner shall make application to the director  
68 of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing  
69 company. The director of revenue shall promulgate rules and regulations determining the  
70 qualifications of such a company, and the method of collection and reporting of sales tax charged  
71 and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or  
72 outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing

73 companies under the provisions of subsection 5 of this section, and no motor vehicle renting or  
74 leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come  
75 under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats,  
76 and outboard motors held for renting and leasing are included.

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

82 10. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560  
83 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue  
84 for authority to collect and remit the sales tax required under this section on all motor vehicles  
85 sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit  
86 the tax is subject to all provisions under sections 144.010 to [~~144.525~~] **144.527**. Any motor  
87 vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this subsection  
88 shall be entitled to deduct and retain an amount equal to two percent of the motor vehicle sales  
89 tax pursuant to section 144.140. Any amount of the tax collected under this subsection that is  
90 retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue.  
91 In no event shall revenues from the general revenue fund or any other state fund be utilized to  
92 compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor  
93 vehicles. In the event this subsection or any portion thereof is held to violate Article IV, Section  
94 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and  
95 remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek  
96 compensation from the state of Missouri or its agencies if a court of competent jurisdiction  
97 declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and  
98 orders the return of such revenues.

99 **11. (1) Beginning January 1, 2021, every motor vehicle dealer licensed under**  
100 **section 301.560 shall collect and remit the sales tax required under this section on all motor**  
101 **vehicles which such dealer sells. In collecting and remitting this sales tax, motor vehicle**  
102 **dealers shall be subject to all applicable provisions under sections 144.010 to 144.527.**

103 **(2) The director of revenue may promulgate all necessary rules and regulations for**  
104 **the administration of this subsection. Any rule or portion of a rule, as that term is defined**  
105 **in section 536.010, that is created under the authority delegated in this subsection shall**  
106 **become effective only if it complies with and is subject to all of the provisions of chapter**  
107 **536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable,**  
108 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**

109 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
110 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
111 after August 28, 2020, shall be invalid and void.

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