

HB 2 -- UTILIZING STREAMLINED SALES AND USE TAX SERVICES ACT

SPONSOR: Love

This bill creates the "Utilizing Streamlined Sales and Use Tax Services Act".

REMOTE SALES TAX COLLECTION (Sections 32.070, 144.079, 144.080, 144.082; Sections 144.111-144.114; Sections 144.190, 144.212, and 144.600. RSMo).

Under this bill, the Department of Revenue may register Missouri with the Streamlined Sales and Use Tax Agreement Governing Board to participate in the Streamlined Sales and Use Tax Agreement as a nonmember state, and the Department is authorized to take all such actions as may be reasonably required to do so. Such actions may include, but are not limited to, the adoption of rules and regulations and the procurement of various goods and services, which may be coordinated jointly with the governing board and with other states. If the Department registers this state as a nonmember state, the Department shall also complete and periodically update a certificate of compliance and taxability matrix that notes how this state's sales and use tax laws follow and deviate from the Streamlined Sales and Use Tax Agreement requirements.

Additionally, the Department is authorized to consult, contract, and work jointly with the governing board, and other states as necessary, to allow sellers to use the governing board's certified service providers and central registration system services.

The Department is authorized to collaborate with the governing board to:

(1) Establish and provide a certification process to allow certified service providers to receive compensation according to a defined compensation structure; and

(2) Enter into any necessary contractual relationships between this state, the governing board, and certified service providers. Such contractual relationships may address:

(a) The responsibilities of the governing board, certified service providers, and the sellers that contract with certified service providers relating to the liability for proper collection and remittance of sales and use taxes;

(b) The responsibilities of the governing board, certified service providers, and the sellers that contract with certified service

providers relating to record keeping, auditing, and the protection of taxpayer information confidentiality; and

(c) The method and amount of compensation to be provided to certified service providers by this state for the services of such certified service providers to certain sellers.

The Department is authorized to pay any necessary annual dues to the governing board for this state's participation as a nonmember state in the Streamlined Sales and Use Tax Agreement and for the associated privileges and benefits of such participation. Such dues shall not exceed the dues that would be owed to the governing board if this state were deemed a full member state under the Streamlined Sales and Use Tax Agreement.

If the Department registers this state as a nonmember state under this bill, the Department shall comply with the governing board's requirements relating to the use of the board's central registration system. The Department is explicitly authorized to enter into a contract with the governing board relating to the use of the central registration system; provided that, any such contract shall only impose upon this state such requirements as are consistent with any requirements imposed upon full member states to the Streamlined Sales and Use Tax Agreement (Section 32.070, RSMo).

Beginning on the effective date of this bill, all revenue generated under this bill that exceeds the amount that would have been collected if the bill were not effective shall be deposited in the streamlined sales and use tax agreement special fund created in this bill and appropriated solely to pay for outstanding transportation bond debt. The Department shall track and report the collections generated under this bill. The provisions creating the fund and dedicating the revenue generated under this bill shall automatically sunset five years after the effective date of this section unless reauthorized by an act of the General Assembly (Section 32.071).

This bill provides that a purchaser shall be relieved from any additional tax, interest, additions, or penalties for failure to collect and remit the proper amount of tax owed on a purchase if:

(1) A purchaser's seller or a certified service provider relied on erroneous data provided by the director on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix created under this bill;

(2) A purchaser using a database created under this bill received erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments; or

(3) A purchaser relied on erroneous data provided by the director in the taxability matrix created under this bill (Section 144.060).

This bill provides that the director shall promulgate rules to allow for the issuance of direct-pay permits to purchasers. Purchasers holding such a permit shall be permitted to purchase goods and services that are subject to sales tax under this bill without remitting payment of the tax to the seller at the time of purchase. Such purchaser shall make a determination of the amount of tax owed and shall report and remit such amount directly to the taxing jurisdiction (Section 144.079).

Additionally, this bill:

Alters the frequency and thresholds for sales tax returns and remittance (Section 144.080).

Provides that the Director of Revenue shall participate in the central registration system described under this bill and shall allow sellers in this state to register with such system at no cost (Section 144.082).

Provides sourcing guidelines for all retail sales in or into this state (Sections 144.111, 144.112, 144.113. and 144.114).

Provides that if the Department registers this state to participate in the streamlined sales and use tax agreement as a nonmember state, the director shall provide a monetary allowance from the taxes (provided they shall not be entitled simultaneously to deduct the 2% timely filing allowance) collected to each of the following:

(1) A certified service provider, in accordance with the agreement and under the terms of the contract signed with the provider;

(2) Any vendor registered under the agreement that selects a certified automated system to perform part of its sales or use tax functions; and

(3) Any vendor registered under the agreement that uses a proprietary system to calculate taxes due and has entered into a performance agreement with states that are members of the streamlined sales and use tax agreement (Section 144.140).

Provides a cause of action against the seller by a purchaser for a tax erroneously or illegally collected shall not accrue until a purchaser has provided written notice to the seller and the seller has had 60 days to respond. Such notice to the seller shall contain the information necessary to determine the validity of the

request. A seller shall be presumed to have a reasonable business practice if, in the collection of such tax, the seller uses a provider or a system certified by the Director and has remitted to the state all tax collected less any deductions, credits, or allowances (Section 144.190).

Provides guidance to sellers if exemptions are claimed by a purchaser (Section 144.212).

Provides that all sales tax laws with respect to sales into this state by out-of-state sellers shall apply to the compensating use tax law (Section 144.600).

#### ECONOMIC NEXUS (Section 144.605)

Beginning January 1, 2022, a vendor engages in business activities within this state if the cumulative gross receipts from the vendor's sales of tangible personal property and digital goods and services to purchasers for the purpose of storage, use, or consumption in this state equal or exceed \$100,000 in either the current or previous calendar year as described under this bill.

#### TAX DATABASE AND TAXABILITY MATRIX (Sections 144.637 and 144.638)

This bill provides that the Director shall provide and maintain a downloadable database that describes boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of vendors collecting the tax. Additionally, this bill provides that the Director shall provide and maintain a downloadable taxability matrix for products and services.

#### MARKETPLACE FACILITATOR (Section 144.752)

By January 1, 2022, marketplace facilitators, as defined in the bill, that meet the use tax economic nexus threshold established in the bill must register with the Department to collect and remit sales and use tax on sales made into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the bill. These retail sales will include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace, as defined in the bill.

Marketplace facilitators properly collecting and remitting use tax in a timely manner will be eligible for any discount provided for under law.

Marketplace facilitators must provide purchasers with a statement or invoice showing that the use tax was collected and will be

remitted on the purchaser's behalf.

#### LOCAL SALES TAX (Sections 32.087, 144.049, 144.054 and 144.757)

The bill specifies that when a city annexes or detaches property, the city clerk must forward a certified copy of the ordinance to the Director within 10 days of adoption of the ordinance. The tax rate in the added or abolished territory must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change. Also, when a political subdivision changes the tax rate or the local sales tax boundary, the change must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087).

This bill removes the opt-out option for local government sales tax exemptions on purchases of clothing, personal computers, and school supplies that take place on the first Friday in August.

Additionally, this bill provides guidance on such exemptions with regards to the exemption period, items purchased on layaway, if the seller and purchaser are in different time zones, bundled transactions, and discounts (Section 144.049).

This bill extends the state's sales tax exemption to local sales taxes for electrical energy and gas, whether natural, artificial, or propane, water, coal, and energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing, processing, compounding, mining, or producing of any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining, or producing any product (Section 144.054).

This bill modifies ballot language required for the submission of a local use tax to voters by including language stating that the approval of the local use tax will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers (Section 144.757).

#### SALES TAX RATE (Section 144.020)

Beginning on July 1, 2022, the state's sales tax rate shall be reduced by one-tenth of one percent if the total amount of net revenue collected by the state has increased in each of the previous three fiscal years by at least \$75 million. No more than one reduction shall occur in a fiscal year and no more than five total reductions shall occur.

This bill has a delayed effective date of January 1, 2022.

This bill is similar to HB 1967 (2020 Regular Session).