

FIRST REGULAR SESSION

HOUSE BILL NO. 605

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHIEFFER (Sponsor), WELLS, MEADOWS, McDONALD,
FALLERT AND DENISON (Co-sponsors).

1401L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.095, 136.055, 144.060, 144.070, and 301.280, RSMo, and to enact in lieu thereof four new sections relating to collection of sales taxes on motor vehicles, with an existing penalty provision.

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

Section A. Sections 32.095, 136.055, 144.060, 144.070, and 301.280, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 136.055,
3 144.060, 144.070, and 301.280, to read as follows:

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

8 (1) For each motor vehicle or trailer registration issued, renewed or transferred--three
9 dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant
10 to section 301.147;

11 (2) For each application or transfer of title--two dollars and fifty cents;

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

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.

15 (4) For each notice of lien processed--two dollars and fifty cents;

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

18 2. The director of revenue shall award fee office contracts under this section through a
19 competitive bidding process. The competitive bidding process shall give priority to
20 organizations and entities that are exempt from taxation under Section 501(c)(3) or 501(c)(6) of
21 the Internal Revenue Code of 1986, as amended, and political subdivisions, including but not
22 limited to, municipalities, counties, and fire protection districts. The director of the department
23 of revenue may promulgate rules and regulations necessary to carry out the provisions of this
24 subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is
25 created under the authority delegated in this subsection shall become effective only if it complies
26 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
27 This section and chapter 536 are nonseverable and if any of the powers vested with the general
28 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
29 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
30 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

31 3. All fees collected by a tax-exempt organization may be retained and used by the
32 organization.

33 4. All fees charged shall not exceed those in this section. The fees imposed by this
34 section shall be collected by all permanent offices and all full-time or temporary offices
35 maintained by the department of revenue.

36 5. Any person acting as agent of the department of revenue for the sale and issuance of
37 registrations, licenses, and other documents related to motor vehicles shall have an insurable
38 interest in all license plates, licenses, tabs, forms and other documents held on behalf of the
39 department.

40 6. [The fees authorized by this section shall not be collected by motor vehicle dealers
41 acting as agents of the department of revenue under section 32.095 or those motor vehicle dealers
42 authorized to collect and remit sales tax under subsection 8 of section 144.070.

43 7.] Notwithstanding any other provision of law to the contrary, the state auditor may
44 audit all records maintained and established by the fee office in the same manner as the auditor
45 may audit any agency of the state, and the department shall ensure that this audit requirement is
46 a necessary condition for the award of all fee office contracts. No confidential records shall be
47 divulged in such a way to reveal personally identifiable information.

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. The provisions of this section shall not apply to any person
6 making any purchase or sale of a motor vehicle subject to sales tax as provided by the Missouri
7 sales tax law[, unless such person making the sale is a motor vehicle dealer authorized to collect
8 and remit sales tax pursuant to subsection 8 of section 144.070].

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 motor vehicle, trailer, boat, or outboard motor as otherwise provided by law,
5 the owner shall present to the director of revenue evidence satisfactory to the director of revenue
6 showing the purchase price exclusive of any charge incident to the extension of credit paid by
7 or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard
8 motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its
9 acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax
10 provided by the Missouri sales tax law in addition to the registration fees now or hereafter
11 required according to law, and the director of revenue shall not issue a certificate of title for any
12 new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the
13 Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to
14 144.510 has been paid as provided in this section or is registered under the provisions of
15 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 appraisalment 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 within the meaning of subdivision
46 (9) of subsection 1 of section 144.010;

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

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

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

64 [8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560
65 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue
66 for authority to collect and remit the sales tax required under this section on all motor vehicles
67 sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit

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

301.280. 1. Every motor vehicle dealer and boat dealer shall make a monthly report to
2 the department of revenue, on blanks to be prescribed by the department of revenue, giving the
3 following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle
4 sold; the name and address of the buyer; the name of the manufacturer; year of manufacture;
5 model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall
6 also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand.
7 [Each monthly sales report filed by a motor vehicle dealer who collects sales tax under
8 subsection 8 of section 144.070 shall also include the amount of state and local sales tax
9 collected for each motor vehicle sold if sales tax was due.] The odometer reading is not required
10 when reporting the sale of any motor vehicle that is ten years old or older, any motor vehicle
11 having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that
12 are transferred on a manufacturer's statement of origin between one franchised motor vehicle
13 dealer and another, or boats, all-terrain vehicles or trailers. The sale of all thirty-day temporary
14 permits, without exception, shall be recorded in the appropriate space on the dealer's monthly
15 sales report by recording the complete permit number issued on the motor vehicle or trailer sale
16 listed. The monthly sales report shall be completed in full and signed by an officer, partner, or
17 owner of the dealership, and actually received by the department of revenue on or before the
18 fifteenth day of the month succeeding the month for which the sales are being reported. If no
19 sales occur in any given month, a report shall be submitted for that month indicating no sales.
20 Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be
21 subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the
22 director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer
23 shall retain copies of the monthly sales report as part of the records to be maintained at the

24 dealership location and shall hold them available for inspection by appropriate law enforcement
25 officials and officials of the department of revenue. Every vehicle dealer selling twenty or more
26 vehicles a month shall file the monthly sales report with the department in an electronic format.
27 Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the
28 notice of transfer required by section 301.196. For any dealer not filing electronically, the notice
29 of transfer required by section 301.196 shall be submitted with the monthly sales report as
30 prescribed by the director.

31 2. Every dealer and every person operating a public garage shall keep a correct record
32 of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles
33 or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together
34 with the name and address of the person delivering such motor vehicle or trailer to the dealer or
35 public garage keeper, and the person delivering such motor vehicle or trailer shall record such
36 information in a file kept by the dealer or garage keeper. The record shall be kept for three years
37 and be open for inspection by law enforcement officials, members or authorized or designated
38 employees of the Missouri highway patrol, and persons, agencies and officials designated by the
39 director of revenue.

40 3. Every dealer and every person operating a public garage in which a motor vehicle
41 remains unclaimed for a period of fifteen days shall, within five days after the expiration of that
42 period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on
43 a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and
44 address are known to the dealer or his employee or person operating a public garage or his
45 employee is not considered unclaimed. Any dealer or person operating a public garage who fails
46 to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its
47 garaging, parking or storing.

48 4. The director of revenue shall maintain appropriately indexed cumulative records of
49 unclaimed vehicles reported to the director. Such records shall be kept open to public inspection
50 during reasonable business hours.

51 5. The alteration or obliteration of the vehicle identification number on any such motor
52 vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public
53 garage shall upon the discovery of such obliteration or alteration immediately notify the highway
54 patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or
55 garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period
56 of forty-eight hours for the purpose of an investigation by the officer so notified.

2 [32.095. 1. Beginning January 1, 2012, the director of the department of
3 revenue may select or appoint any motor vehicle dealer, as such term is defined
4 in chapter 301, to act as an agent of the department of revenue for the purpose of
titling and registering motor vehicles under chapter 301. Such motor vehicle

5 dealers shall only act as an agent under this section for an initial sale or lease of
6 a motor vehicle, but shall not act as an agent under this section for any
7 subsequent registration under chapter 301 or 306.

8 2. The director of revenue may promulgate rules to administer the
9 provisions of this section. Any rule or portion of a rule, as that term is defined
10 in section 536.010, that is created under the authority delegated in this section
11 shall become effective only if it complies with and is subject to all of the
12 provisions of chapter 536 and, if applicable, section 536.028. This section and
13 chapter 536 are nonseverable and if any of the powers vested with the general
14 assembly pursuant to chapter 536 to review, to delay the effective date, or to
15 disapprove and annul a rule are subsequently held unconstitutional, then the grant
16 of rulemaking authority and any rule proposed or adopted after August 28, 2009,
17 shall be invalid and void.]

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