

SECOND REGULAR SESSION

HOUSE BILL NO. 1565

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILLIAMS, RELFORD, WHORTON, COOPER, LOWE,
KELLY (36) AND BOUCHER (Co-sponsors).

Read 1st time January 22, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3745L.01I

AN ACT

To amend chapter 221, RSMo, by adding thereto five new sections relating to jails and jailers.

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

Section A. Chapter 221, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 221.360, 221.363, 221.366, 221.369 and 221.407, to read as follows:

221.360. 1. As used in sections 221.360 to 221.372, the term "private jail" shall
2 **mean any correctional facility, prison, jail or other facility intended as a place of**
3 **confinement for criminal defendants pending disposition of the criminal case against them,**
4 **and persons awaiting revocation disposition, which is owned or operated by any person,**
5 **corporation, partnership, business, association, or other entity which is not an agency or**
6 **political subdivision of this state.**

7 **2. No private jail may operate within this state without meeting all the**
8 **requirements set forth in subsection 3 of this section; nor shall any political subdivision**
9 **contract with any private jail unless the private jail meets all the requirements set forth in**
10 **subsection 3 of this section.**

11 **3. A private jail, before entering into any contract for services with the state or any**
12 **political subdivision thereof, shall:**

13 **(1) Serve written notice of the intent to establish a private jail, and of the time and**
14 **place of a public hearing on the establishment of such private jail, to all local law**
15 **enforcement agencies, hospitals, and fire districts within the political subdivision wherein**
16 **such private jail is proposed to be located, and to the general public through notice**
17 **published in local newspapers;**

18 **(2) Submit for formal approval an operational plan to each political subdivision in**
19 **which the private jail is proposed to be located, such plan to specify:**

- 20 (a) The maximum security classification of individuals the private jail proposes to
21 accept, the private jail's custody level and maximum capacity;
- 22 (b) Verification of internal and perimeter security commensurate to security level;
- 23 (c) Written plans for the operation of the private jail, including but not limited to,
24 provision for control of infectious and contagious diseases, fire, power failure,
25 transportation, escape, riot, and other emergency and natural disasters;
- 26 (d) An environmental impact statement concerning the effect of the proposed
27 private jail on the surrounding area;
- 28 (e) Any other information required by each political subdivision wherein the
29 private jail is proposed to be located.
- 30 (3) Provide to the state or any political subdivision with which it proposes to
31 contract for services documentation of the qualifications and experience of the proposed
32 management of such private jail;
- 33 (4) Provide to the state or any political subdivision with which it proposes to
34 contract for services documentation of the indemnification for liability arising from the
35 operation of the proposed private jail; and
- 36 (5) Provide to the state or any political subdivision with which it proposes to
37 contract for services documentation of the ability of the proposed private jail to comply
38 with the requirements of this state's courts and department of corrections, and with state
39 and federal constitutional requirements for the care and custody of individuals confined
40 by the state.

- 221.363. 1. In private jails located in unincorporated areas of a county, the county
2 sheriff may enter a private jail at any time.
- 3 2. All private jails shall operate at all times in a manner that satisfies the
4 accreditation standards of the American Correctional Association. Within twenty-four
5 months of housing their first prisoner all new private jails shall obtain accreditation by the
6 American Correctional Association. Within twenty-four months of the effective date of this
7 legislation all existing private jails shall obtain accreditation by the American Correctional
8 Association. All private jails shall maintain their accreditation with the American
9 Correctional Association at all times. Any private jail losing its accreditation or failing to
10 obtain its initial accreditation shall immediately cease all operations related to the
11 transportation, incarceration, housing, care or custody of any prisoner.
- 12 3. All private jails shall immediately notify the state office of the attorney general
13 in writing if they lose their accreditation or if their application for initial accreditation is
14 denied. The provisions of this section and section 221.360 may be enforced by any political
15 subdivision in which the private jail operates and by the state office of the attorney general.

221.366. 1. Private jails shall, at a minimum, provide the following services:

(1) Work or training programs, educational and vocational-technical opportunities, drug and alcohol treatment, and life skills counseling services, suitable for the population the private jail serves; and

(2) Rules for inmate discipline which are consistent with federal and state law, the federal and state constitutions, and the standards of the American Correctional Association, including adequate on-site food, clothing, housing, and medical care facilities and staff.

2. Employees of private jails shall maintain qualifications which meet or exceed the standards of the American Correctional Association for the positions such employees hold.

221.369. 1. Any act which would constitute a violation of law if committed within a publicly-operated jail shall constitute the same violation of law if committed within a private jail.

2. Upon verbal request, members of the county commission or heads of local law enforcement agencies, or their delegates, shall be given full and complete access to any and all portions of any private jail's facilities located within the political subdivision wherein the private jail is located and such commissioners and law enforcement authorities have jurisdiction.

3. Private jails shall not:

(1) Be public entities for purpose of Missouri law;

(2) Enjoy sovereign immunity; and

(3) Be considered part of the state correctional system.

221.407. 1. The commission of any regional jail district, the jails of which are operated by member counties and not private authorities, may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, RSMo, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the regional jail district of (counties' names) impose a region-wide

15 sales tax of (insert amount) for the purpose of providing jail services and court
16 facilities and equipment for the region?

17 G Yes

G No

18

19 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are
20 opposed to the question, place an "X" in the box opposite "No".

21

22 If a majority of the votes cast on the proposal by the qualified voters of the district voting
23 thereon are in favor of the proposal, then the order and any amendment to such order shall
24 be in effect on the first day of the second quarter immediately following the election
25 approving the proposal. If the proposal receives less than the required majority, the
26 commission shall have no power to impose the sales tax authorized pursuant to this section
27 unless and until the commission shall again have submitted another proposal to authorize
28 the commission to impose the sales tax authorized by this section and such proposal is
29 approved by the required majority of the qualified voters of the district voting on such
30 proposal; however, in no event shall a proposal pursuant to this section be submitted to the
31 voters sooner than twelve months from the date of the last submission of a proposal
32 pursuant to this section.

33 3. All revenue received by a district from the tax authorized pursuant to the
34 provisions of this section shall be deposited in a special trust fund and shall be used solely
35 for providing jail services and court facilities and equipment for such district for so long
36 as the tax shall remain in effect.

37 4. Once the tax authorized by this section is abolished or terminated by any means,
38 all funds remaining in the special trust fund shall be used solely for providing jail services
39 and court facilities and equipment for the district. Any funds in such special trust fund
40 which are not needed for current expenditures may be invested by the commission in
41 accordance with applicable laws relating to the investment of other county funds.

42 5. All sales taxes collected by the director of revenue pursuant to this section on
43 behalf of any district, less one percent for cost of collection which shall be deposited in the
44 state's general revenue fund after payment of premiums for surety bonds as provided in
45 section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created,
46 to be know as the "Regional Jail District Sales Tax Trust Fund". The moneys in the
47 regional jail district sales tax trust fund shall not be deemed to be state funds and shall not
48 be commingled with any funds of the state. The director of revenue shall keep accurate
49 records of the amount of money in the trust fund which was collected in each district
50 imposing a sales tax pursuant to this section, and the records shall be open to the inspection

51 of officers of each member county and the public. Not later than the tenth day of each
52 month the director of revenue shall distribute all moneys deposited in the trust fund during
53 the preceding month to the district which levied the tax. Such funds shall be deposited
54 with the treasurer of each such district, and all expenditures of funds arising from the
55 regional jail district sales tax trust fund shall be paid pursuant to an appropriation
56 adopted by the commission and shall be approved by the commission. Expenditures may
57 be made from the fund for any function authorized in the order adopted by the commission
58 submitting the regional jail district tax to the voters.

59 6. The director of revenue may authorize the state treasurer to make refunds from
60 the amounts in the trust fund and credited to any district for erroneous payments and
61 overpayments made, and may redeem dishonored checks and drafts deposited to the credit
62 of such districts. If any district abolishes the tax, the commission shall notify the director
63 of revenue of the action at least ninety days prior to the effective date of the repeal and the
64 director of revenue may order retention in the trust fund, for a period of one year, of two
65 percent of the amount collected after receipt of such notice to cover possible refunds or
66 overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit
67 of such accounts. After one year has elapsed after the effective date of abolition of the tax
68 in such district, the director of revenue shall remit the balance in the account to the district
69 and close the account of that district. The director of revenue shall notify each district in
70 each instance of any amount refunded or any check redeemed from receipts due the
71 district.

72 7. Except as provided in this section, all provisions of sections 32.085 and 32.087,
73 RSMo, shall apply to the tax imposed pursuant to this section.

74 8. The provisions of this section shall expire August 28, 2015.