

SECOND REGULAR SESSION

HOUSE BILL NO. 2457

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDERSON.

6393H.031

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 66.390, 66.500, 92.325, 92.327, 92.331, and 144.020, RSMo, and to enact in lieu thereof nine new sections relating to residential dwelling rentals.

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

Section A. Sections 66.390, 66.500, 92.325, 92.327, 92.331, and 144.020, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 66.390, 66.500, 67.180, 67.5110, 92.325, 92.327, 92.331, 94.005, and 144.020, to read as follows:

66.390. 1. The governing body of any county of the first class having a charter form of government and having a population of over nine hundred thousand inhabitants may levy a tax not to exceed three percent on the amount of sales or charges for all rooms paid by the transient guests of hotels and motels situated within such county. Such tax should be known as a "Convention and Tourism Tax" and shall be deposited by the county treasurer in what shall be known as the "Convention and Tourism Fund". As used herein, "transient guests" means person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

2. The person, firm or corporation, subject to the tax imposed by this section, shall collect the tax from the transient guests, and each such transient guest shall pay the amount of such tax to the person, firm or corporation directed to collect the tax imposed herein.

3. The tax imposed pursuant to the provisions of sections 66.390 to 66.398 shall be in addition to any and all other taxes and licenses.

4. The governing body may establish reasonable rules and regulations governing procedures for collecting and reporting of the tax.

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.

16 5. The governing body may provide in the ordinance levying the tax that from every
17 remittance of the tax made, the person required to so remit may deduct and retain an amount
18 equal to two percent of the taxes collected.

19 6. The ordinance shall establish procedures for refunds and penalties on delinquent taxes.

20 **7. For purposes of this section, rooms paid by the transient guests shall include**
21 **rooms in residential dwelling rentals, as that term is defined under section 67.5110.**

66.500. As used in sections 66.500 to 66.516, the following terms mean:

2 (1) "County", a constitutional charter county containing the major portion of a city with
3 a population of at least three hundred fifty thousand inhabitants;

4 (2) "Food", all articles commonly used for food or drink, including alcoholic beverages,
5 the provisions of chapter 311 notwithstanding;

6 (3) "Food establishment", any cafe, cafeteria, lunchroom or restaurant which sells food
7 at retail and has at least five hundred thousand dollars in annual sales;

8 (4) "Governing body", the body charged with governing the county;

9 (5) "Gross receipts", the gross receipts from retail sales of food prepared on the premises
10 and delivered to the purchaser (excluding sales tax);

11 (6) "Hotel, motel or tourist court", any structure or building, under one management,
12 which contains rooms furnished for the accommodation or lodging of guests, with or without
13 meals being so provided, and kept, used, maintained, advertised, or held out to the public as a
14 place where sleeping accommodations are sought for pay or compensation to transient guests or
15 permanent guests and having more than eight bedrooms furnished for the accommodations of
16 such guests. Sleeping accommodations consisting of one bedroom or more that rent for less than
17 twenty dollars per day or less than eighty-five dollars per week and shelters for the homeless
18 operated by not-for-profit organizations are not a "hotel, motel or tourist court" for the purposes
19 of this act. **"Hotel, motel, or tourist court" shall include sleeping accommodations in**
20 **residential dwelling rentals, as that term is defined under section 67.5110;**

21 (7) "Person", any individual, corporation, partnership or other entity;

22 (8) "Transient guest", a person who occupies a room or rooms in a hotel, motel or tourist
23 court for thirty-one days or less during any calendar quarter.

67.180. For purposes of this chapter, any sales tax authorized on the rental of
2 **accommodations of a hotel or motel shall be deemed to apply to accommodations of a**
3 **residential dwelling rental, as that term is defined under section 67.5110.**

67.5110. 1. As used in this section, the following terms mean:

2 (1) **"Facilitation platform", an intermediary that facilitates the rental of a**
3 **residential dwelling rental to, and collects payment from, a transient guest. "Facilitation**
4 **platform" shall not include an entity that acts solely as a property manager;**

5 (2) "Guest room", any room or unit where sleeping accommodations are regularly
6 furnished to the public;

7 (3) "Marketing platform", an intermediary that facilitates the rental of a
8 residential dwelling rental to, but does not collect payment from, a transient guest;

9 (4) "Owner", a person who offers a residential dwelling rental to transient guests;

10 (5) "Person", any individual, corporation, partnership, or other entity;

11 (6) "Political subdivision", any county, city, town, village, township, fire district,
12 sewer district, or water district;

13 (7) "Property manager", an individual or entity designated by an owner to manage
14 private property;

15 (8) "Reasonable regulation", any ordinance or law that does not expressly prohibit
16 or have the practical effect of prohibiting residential dwelling rentals;

17 (9) "Residential dwelling", any building, structure, or part of a building or
18 structure that is used and occupied for human habitation or intended to be so used,
19 including any appurtenances belonging to it or enjoyed with it;

20 (10) "Residential dwelling rental", a single residential dwelling or any part thereof
21 offered for rent to transient guests. This definition shall not include a time-share unit, as
22 defined under section 407.600, or a lodging establishment, as defined under section
23 315.005;

24 (11) "Transient guest", any person who rents and occupies a guest room in a
25 residential dwelling rental for no more than thirty-one consecutive days during a calendar
26 quarter.

27 2. A political subdivision shall not, after August 28, 2018, enact an ordinance or law
28 that expressly prohibits or that has the actual effect of prohibiting residential dwelling
29 rentals and shall not impose a fee that has the practical effect of prohibiting residential
30 dwelling rentals.

31 3. A political subdivision shall not, after August 28, 2019, enforce or maintain an
32 ordinance or law that expressly prohibits or that has the actual effect of prohibiting
33 residential dwelling rentals and shall not impose a fee that has the practical effect of
34 prohibiting residential dwelling rentals.

35 4. Nothing in this section shall prohibit political subdivisions from enacting and
36 enforcing reasonable zoning regulations by exercising the powers vested therein under
37 chapters 64 and 89 in a manner consistent with the limitations imposed by this section.

38 5. A transient guest occupying a guest room in a residential dwelling rental shall
39 pay, and an owner shall collect and remit, any sales tax, hotel and motel tax, occupancy tax,
40 tourism tax, or other tax imposed on transient guests by the state or by a local political

41 subdivision or taxing authority in which the residential dwelling rental is located, including
42 any such taxes authorized under this chapter or chapter 66, 92, 94, or 144. Taxes shall be
43 collected and remitted as follows:

44 (1) If an owner uses a facilitation platform, the facilitation platform shall collect
45 and remit on behalf of the owner any applicable state and local taxes imposed on rentals
46 facilitated by the facilitation platform for the occupancy of a guest room in a residential
47 dwelling rental or lodging establishment, as that term is defined under section 315.005, by
48 a transient guest. A facilitation platform may comply with this requirement by entering
49 into a voluntary agreement with the department of revenue and any political subdivision
50 or taxing authority to collect and remit applicable taxes, whether the tax imposed be a sales
51 tax, hotel and motel tax, occupancy tax, tourism tax, or otherwise, and shall be deemed to
52 be compliant with this section for as long as that agreement is in force. A facilitation
53 platform that is collecting and remitting applicable taxes shall report the taxes and remit
54 the aggregate total amounts to each taxing authority and shall not be required to list or
55 otherwise identify any individual owners on any return or attachments to a return. A
56 property manager that collects and remits on behalf of an owner taxes imposed on the
57 occupancy of a guest room in a residential dwelling by a transient guest shall not be
58 considered a facilitation platform. For purposes of the collection and remittance by a
59 facilitation platform of any state sales tax imposed on a transient guest for the occupancy
60 of a guest room in a residential dwelling rental, the provisions of sections 32.096 to 32.110,
61 sections 136.101 to 136.380, and sections 144.010 to 144.525 shall apply; and

62 (2) If an owner uses a marketing platform, an owner shall obtain a certificate of no
63 tax due and a retail sales tax license prior to renting a residential dwelling rental to a
64 transient guest. The owner shall disclose to the transient guest the obligation to pay any
65 applicable state and local taxes, and the owner shall collect and remit any applicable state
66 and local taxes imposed on the occupancy of a guest room in a residential dwelling rental
67 by a transient guest.

68 6. A facilitation platform or a marketing platform shall maintain records of any
69 rentals facilitated for a period of three years from the date of rental for audits requested
70 by a taxing authority.

71 7. The provisions of subsections 5 and 6 of this section shall take effect on January
72 1, 2019.

92.325. As used in sections 92.325 to 92.340, the following terms mean:

2 (1) "City", a constitutional charter city located in four or more counties;

3 (2) "Food", all articles commonly used for food or drink, including alcoholic beverages,
4 the provisions of chapter 311 notwithstanding;

5 (3) "Food establishment", any cafe, cafeteria, lunchroom or restaurant which sells food
6 at retail;

7 (4) "Governing body", the city council charged with governing the city;

8 (5) "Gross receipts", the gross receipts from retail sales of food prepared on the premises
9 and delivered to the purchaser (excluding sales tax);

10 (6) **"Guest room", any room or unit where sleeping accommodations are regularly
11 furnished to the public;**

12 (7) "Hotel, motel or tourist court", any structure or building, under one management,
13 which contains rooms furnished for the accommodation or lodging of guests, with or without
14 meals being so provided, and kept, used, maintained, advertised, or held out to the public as a
15 place where sleeping accommodations are sought for pay or compensation to transient guests or
16 permanent guests and having more than eight bedrooms furnished for the accommodations of
17 such guests. Sleeping accommodations consisting of one bedroom or more, that rent for less
18 than twenty dollars per day or less than eighty-five dollars per week and shelters for the homeless
19 operated by not-for-profit organizations are not a "hotel, motel or tourist court" for the purposes
20 of this act;

21 ~~(7)~~ (8) **"Lodging establishment", any building, group of buildings, structure,
22 facility, place, or places of business where guest rooms are provided that is:**

23 (a) **Owned, maintained, or operated by a person;**

24 (b) **Kept, used, maintained, advertised, or held out to the public for hire, which may
25 be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabin,
26 tourist home, bunkhouse, dormitory, or other similar place; and**

27 (c) **Includes all such accommodations operated for hire as lodging establishments
28 for either transient guests, permanent guests, or for both transient and permanent guests;**

29 (9) "Person", any individual, corporation, partnership or other entity;

30 ~~(8)~~ (10) **"Residential dwelling", any building, structure, or part of the building
31 or structure that is used or occupied for human habitation or intended to be so used and
32 includes any appurtenances belonging to or enjoyed with it;**

33 (11) **"Residential dwelling rental", a residential dwelling or any part thereof
34 offered for rent to transient guests. This definition shall not include time-share units, as
35 defined under section 407.600, or lodging establishments, as defined under this section;**

36 (12) "Transient guest", a person who occupies a room or rooms in a hotel, motel ~~or~~ ,
37 tourist court, **lodging establishment, or residential dwelling rental** for thirty-one days or less
38 during any calendar quarter.

92.327. 1. Any city may submit a proposition to the voters of such city:

2 (1) A tax not to exceed seven and one-half percent of the amount of sales or charges for
 3 all:

4 (a) Sleeping rooms paid by the transient guests of hotels, motels and tourist courts
 5 situated within the city involved, and doing business within such city (excluding sales tax); **or**

6 (b) **Guest rooms paid by the transient guests of lodging establishments and**
 7 **residential dwelling rentals situated within the city;** and

8 (2) A tax not to exceed two percent of the gross receipts derived from the retail sales of
 9 food by every person operating a food establishment.

10 2. Such taxes shall be known as the "convention and tourism tax" and when collected
 11 shall be deposited by the city treasurer in a separate fund to be known as the "Convention and
 12 Tourism Fund". The governing body of the city shall appropriate from the convention and
 13 tourism fund as provided in sections 92.325 to 92.340.

92.331. Such proposition shall be submitted to the voters in substantially the following
 2 form at such election:

3 Shall a convention and tourism tax of _____ percent on the amount of sales or charges
 4 for all rooms paid by the transient guests of hotels, motels [~~and~~] , tourist courts, **lodging**
 5 **establishments, and residential dwelling rentals situated within the city** and _____ percent
 6 on the gross receipts derived from the retail sales of food at a food establishment be levied in the
 7 city of _____ to provide funds for the promotion of convention and tourism?

8 YES NO

94.005. For purposes of this chapter, any sales tax authorized on rooms paid by
 2 **transient guests of hotels and motels shall be deemed to apply to rooms of a residential**
 3 **dwelling rental, as that term is defined under section 67.5110.**

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, except amounts paid for any instructional class;

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, **residential dwelling rental as defined under section**
32 **67.5110**, or other place in which rooms, meals or drinks are regularly served to the public. The
33 tax imposed under this subdivision shall not apply to any automatic mandatory gratuity for a
34 large group imposed by a restaurant when such gratuity is reported as employee tip income and
35 the restaurant withholds income tax under section 143.191 on such gratuity;

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

41 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
42 tangible personal property, provided that if the lessor or renter of any tangible personal property
43 had previously purchased the property under the conditions of sale at retail or leased or rented
44 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
45 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
46 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
47 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
48 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
49 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,

50 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,
51 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
52 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
53 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
54 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
55 upon the lease or rental thereof;

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

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

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