

SECOND REGULAR SESSION

SENATE BILL NO. 772

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Pre-filed December 20, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

4065S.011

AN ACT

To repeal sections 144.081 and 144.140, RSMo, and to enact in lieu thereof one new section relating to seller's retention of sales tax.

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

Section A. Sections 144.081 and 144.140, RSMo, are repealed and one new
2 section enacted in lieu thereof, to be known as section 144.081, to read as follows:

144.081. 1. The director of revenue, by regulation, may require a seller
2 to timely remit the unpaid state sales tax for each quarter-monthly period, only
3 if the seller's aggregate state sales tax was ten thousand dollars or more in each
4 of at least six months during the prior twelve months. The term "state sales tax"
5 as used in this section means the tax imposed by sections 144.010 to 144.510 and
6 the additional sales tax imposed by sections 43(a) to 43(c) and 47(a) to 47(c) of
7 article IV of the Missouri Constitution and does not include any sales taxes
8 imposed by political subdivisions of the state pursuant to other provisions of law.

9 2. The director may increase the monthly requirement to more than ten
10 thousand dollars or otherwise narrow the application of the quarter-monthly
11 remittance system authorized by this section. The director may not require the
12 remittance of state sales taxes more often than monthly unless authorized by this
13 section.

14 3. A remittance shall be timely if mailed as provided in section 143.851,
15 RSMo, within three banking days after the end of the quarter-monthly period or
16 if received by the director or deposited in a depository designated by the director
17 within four banking days after the end of the quarter-monthly period.

18 4. [The unpaid amount shall be after a reduction for the compensation
19 provided by section 144.140.] The unpaid amount at the end of a quarter-monthly

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 period shall not include unpaid amounts for a prior quarter-monthly period only
21 if the seller made a remittance with respect to the prior quarter-monthly
22 period. The excess, if any, of a remittance over the actual amount for a period
23 shall be applied in order of time to each of the seller's succeeding remittances
24 with respect to the same return period.

25 5. For purposes of this section, "quarter-monthly period" means:

- 26 (1) The first seven days of a calendar month;
27 (2) The eighth to fifteenth day of a calendar month;
28 (3) The sixteenth to twenty-second day of a calendar month; and
29 (4) The portion following the twenty-second of a calendar month.

30 6. (1) In the case of an underpayment of any amount required to be paid
31 pursuant to this section, a seller shall be liable for a penalty in lieu of all other
32 penalties, interest or additions to tax imposed by this chapter for violating this
33 section. The penalty shall be five percent of the amount of the underpayment
34 determined under subdivision (2) of this subsection.

35 (2) The amount of the underpayment shall be the excess of:

- 36 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly
37 period, over
38 (b) The amount, if any, of the timely remittance for the quarter-monthly
39 period.

40 7. (1) The penalty with respect to any quarter-monthly period shall not
41 be imposed if the seller's timely remittance for the quarter-monthly period equals
42 or exceeds one-fourth of the average monthly state sales tax liability of the seller
43 for the preceding calendar year. The month of highest liability and the month of
44 lowest liability shall be excluded in computing the average. This subdivision
45 shall apply only to a seller who had a state sales tax liability for at least six
46 months of the previous calendar year.

47 (2) The penalty shall not be imposed if the seller establishes that the
48 failure to make a timely remittance of at least ninety percent was due to
49 reasonable cause, and not due to willful neglect.

50 (3) The penalty shall not be imposed against any seller for the first two
51 months the seller is obligated to make quarter-monthly remittance of state sales
52 taxes.

53 8. Tax amounts remitted under this section shall be treated as payments
54 on the seller's monthly return required by sections 144.080 and 144.090. Tax
55 amounts remitted under this section shall be deemed to have been paid on the

56 last day prescribed for filing the return. The preceding sentence shall apply in
57 computing [compensation under section 144.140,] interest, penalties and
58 additions to tax and for purposes of all sections of this chapter, except this
59 section.

60 9. The director of revenue may prescribe the use of an electronic funds
61 payment system for the payment of sales and use taxes by any seller subject to
62 the requirement of quarter-monthly remittance as provided in this section.

[144.140. From every remittance to the director of revenue
2 made on or before the date when the same becomes due, the person
3 required to remit the same shall be entitled to deduct and retain
4 an amount equal to two percent thereof.]

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Bill

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