

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 398
102ND GENERAL ASSEMBLY

1413H.07C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 144.020, 144.070, 304.820, 407.812, and 407.828, RSMo, and to enact in lieu thereof five new sections relating to motor vehicles, with penalty provisions.

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

Section A. Sections 144.020, 144.070, 304.820, 407.812, and 407.828, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 144.020,
3 144.070, 304.822, 407.812, and 407.828, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and
2 used 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
6 taxable 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
11 such sale involves the exchange of property, a tax equivalent to four percent of the
12 consideration paid or charged, including the fair market value of the property exchanged at
13 the time and place of the exchange, except as otherwise provided in section 144.025;

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.

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) A tax equivalent to four percent on the basic rate paid or charged on all sales
21 of local and long distance telecommunications service to telecommunications subscribers and
22 to others through equipment of telecommunications subscribers for the transmission of
23 messages and conversations and upon the sale, rental or leasing of all equipment or services
24 pertaining or incidental thereto; except that, the payment made by telecommunications
25 subscribers or others, pursuant to section 144.060, and any amounts paid for access to the
26 internet or interactive computer services shall not be considered as amounts paid for
27 telecommunications services;

28 (b) If local and long distance telecommunications services subject to tax under this
29 subdivision are aggregated with and not separately stated from charges for
30 telecommunications service or other services not subject to tax under this subdivision,
31 including, but not limited to, interstate or international telecommunications services, then the
32 charges for nontaxable services may be subject to taxation unless the telecommunications
33 provider can identify by reasonable and verifiable standards such portion of the charges not
34 subject to such tax from its books and records that are kept in the regular course of business,
35 including, but not limited to, financial statement, general ledgers, invoice and billing systems
36 and reports, and reports for regulatory tariffs and other regulatory matters;

37 (c) A telecommunications provider shall notify the director of revenue of its intention
38 to utilize the standards described in paragraph (b) of this subdivision to determine the charges
39 that are subject to sales tax under this subdivision. Such notification shall be in writing and
40 shall meet standardized criteria established by the department regarding the form and format
41 of such notice;

42 (d) The director of revenue may promulgate and enforce reasonable rules and
43 regulations for the administration and enforcement of the provisions of this subdivision. Any
44 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
45 authority delegated in this section shall become effective only if it complies with and is
46 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
47 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
48 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a
49 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
50 rule proposed or adopted after August 28, 2019, shall be invalid and void;

51 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of
52 services for transmission of messages of telegraph companies;

53 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
54 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house,
55 drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or
56 drinks are regularly served to the public. The tax imposed under this subdivision shall not
57 apply to any automatic mandatory gratuity for a large group imposed by a restaurant when
58 such gratuity is reported as employee tip income and the restaurant withholds income tax
59 under section 143.191 on such gratuity;

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

65 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease
66 of tangible personal property, provided that if the lessor or renter of any tangible personal
67 property had previously purchased the property under the conditions of sale at retail or leased
68 or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor,
69 sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease,
70 sublease, rental or subrental receipts from that property. The purchase, rental or lease of
71 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors
72 shall be taxed and the tax paid as provided in this section and section 144.070. In no event
73 shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to,
74 for or in places of amusement, entertainment or recreation nor shall any such rental or lease
75 be subject to any tax imposed to, for, or in such places of amusement, entertainment or
76 recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of
77 the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible
78 personal property which is exempt from the sales or use tax under section 144.030 upon a sale
79 thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

80 (9) A tax equivalent to four percent of the purchase price, as defined in section
81 144.070, of new and used motor vehicles, trailers, boats, and outboard motors purchased or
82 acquired for use on the highways or waters of this state which are required to be registered
83 under the laws of the state of Missouri. This tax is imposed on the person titling such
84 property, and shall be paid according to the procedures in section **144.070 or** 144.440.

85 2. All tickets sold which are sold under the provisions of this chapter which are
86 subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words
87 "This ticket is subject to a sales tax."

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

2. As used in subsection 1 of this section, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment therefor.

3. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisal by the director.

4. The director of the department of revenue shall endorse upon the official certificate of title issued by the director upon such application an entry showing that such sales tax has been paid or that the motor vehicle, trailer, boat, or outboard motor represented by such certificate is exempt from sales tax and state the ground for such exemption.

5. Any person, company, or corporation engaged in the business of renting or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental or lease purposes, and not for resale, may apply to the director of revenue for authority to operate as a leasing or rental company and pay an annual fee of two hundred fifty dollars for such authority. Any company approved by the director of revenue may pay the tax due on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not exercise the option of paying in accordance with section 144.020, on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor

38 which is leased as the result of a contract executed in this state shall be presumed to be
39 domiciled in this state.

40 6. Every applicant to be a registered fleet owner as described in subsections 6 to 10 of
41 section 301.032 shall furnish with the application to operate as a registered fleet owner a
42 corporate surety bond or irrevocable letter of credit, as defined in section 400.5-102, issued
43 by any state or federal financial institution in the penal sum of one hundred thousand dollars,
44 on a form approved by the department. The bond or irrevocable letter of credit shall be
45 conditioned upon the registered fleet owner complying with the provisions of any statutes
46 applicable to registered fleet owners, and the bond shall be an indemnity for any loss
47 sustained by reason of the acts of the person bonded when such acts constitute grounds for the
48 suspension or revocation of the registered fleet owner license. The bond shall be executed in
49 the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable
50 letter of credit shall name the state of Missouri as the beneficiary; except that, the aggregate
51 liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed
52 the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable
53 letter of credit shall be paid upon receipt by the department of a final judgment from a
54 Missouri court of competent jurisdiction against the principal and in favor of an aggrieved
55 party.

56 7. Any corporation may have one or more of its divisions separately apply to the
57 director of revenue for authorization to operate as a leasing company, provided that the
58 corporation:

59 (1) Has filed a written consent with the director authorizing any of its divisions to
60 apply for such authority;

61 (2) Is authorized to do business in Missouri;

62 (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor
63 from one of its divisions to another of its divisions as a sale at retail;

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

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

71 8. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge
72 and collect sales tax as provided in this section, the owner shall make application to the
73 director of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor
74 leasing company. The director of revenue shall promulgate rules and regulations determining

75 the qualifications of such a company, and the method of collection and reporting of sales tax
76 charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers,
77 boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard
78 motor leasing companies under the provisions of subsection 5 of this section, and no motor
79 vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or
80 leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all
81 motor vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

82 9. Any person, company, or corporation engaged in the business of renting or leasing
83 three thousand five hundred or more motor vehicles which are to be used exclusively for
84 rental or leasing purposes and not for resale, and that has applied to the director of revenue for
85 authority to operate as a leasing company may also operate as a registered fleet owner as
86 prescribed in section 301.032.

87 10. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560
88 engaged in the business of selling motor vehicles or trailers ~~may~~ **shall** apply to the director
89 of revenue for authority to collect and remit the sales tax required under this section on all
90 motor vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to
91 collect and remit the tax is subject to all provisions under sections 144.010 to 144.525. Any
92 motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this
93 subsection shall be entitled to deduct and retain an amount equal to two percent of the motor
94 vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this
95 subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not
96 constitute state revenue. In no event shall revenues from the general revenue fund or any
97 other state fund be utilized to compensate motor vehicle dealers for their role in collecting and
98 remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is
99 held to violate Article IV, Section 30(b) of the Missouri Constitution, no motor vehicle dealer
100 shall be authorized to collect and remit sales taxes on motor vehicles under this section. No
101 motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a
102 court of competent jurisdiction declares that the retention of two percent of the motor vehicle
103 sales tax is unconstitutional and orders the return of such revenues.

104 **11. (1) Every motor vehicle dealer licensed under section 301.560, as soon as**
105 **technologically possible following the development and maintenance of a modernized,**
106 **integrated system for the titling of vehicles, issuance and renewal of vehicle**
107 **registrations, issuance and renewal of driver's licenses and identification cards, and**
108 **perfection and release of liens and encumbrances on vehicles, to be funded by the motor**
109 **vehicle administration technology fund as created in section 301.558, shall collect and**
110 **remit the sales tax required under this section on all motor vehicles that such dealer**

111 sells. In collecting and remitting this sales tax, motor vehicle dealers shall be subject to
112 all applicable provisions under sections 144.010 to 144.527.

113 (2) The director of revenue may promulgate all necessary rules and regulations
114 for the administration of this subsection. Any rule or portion of a rule, as that term is
115 defined in section 536.010, that is created under the authority delegated in this
116 subsection shall become effective only if it complies with and is subject to all of the
117 provisions of chapter 536 and, if applicable, section 536.028. This subsection and
118 chapter 536 are nonseverable and if any of the powers vested with the general assembly
119 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
120 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
121 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

304.822. 1. This section shall be known as the "Siddens Bening Hands Free
2 Law".

3 2. As used in this section, the following terms shall mean:

4 (1) "Commercial motor vehicle", the same meaning as is ascribed to such term
5 in section 302.700;

6 (2) "Electronic communication device", a portable device that is used to initiate,
7 receive, store, or view communication, information, images, or data electronically;

8 (a) Such term shall include but not be limited to: cellular telephones; portable
9 telephones; text-messaging devices; personal digital assistants; pagers; broadband
10 personal communication devices; electronic devices with mobile data access; computers,
11 including but not limited to tablets, laptops, notebook computers, and electronic or
12 video game systems; devices capable of transmitting, retrieving, or displaying a video,
13 movie, broadcast television image, or visual image; and any substantially similar device
14 that is used to initiate or receive communication or store and review information, videos,
15 images, or data;

16 (b) Such term shall not include: radios; citizens band radios; commercial two-
17 way radio communication devices or their functional equivalent; subscription-based
18 emergency communication devices; prescribed medical devices; amateur or ham radio
19 devices; or global positioning system receivers, security, navigation, communication, or
20 remote diagnostics systems permanently affixed to the vehicle;

21 (3) "Highway", the same meaning as is ascribed to such term in section 302.010;

22 (4) "Noncommercial motor vehicle", the same meaning as is ascribed to such
23 term in section 302.700;

24 (5) "Operating", the actual physical control of a vehicle;

25 (6) "Operator", a person who is in actual physical control;

26 (7) "School bus", the same meaning as is ascribed to such term in section
27 302.700;

28 (8) "Voice-operated or hands-free feature or function", a feature or function,
29 whether internally installed or externally attached or connected to an electronic
30 communication device, that allows a person to use an electronic communication device
31 without the use of either hand, except to activate, deactivate, or initiate the feature or
32 function with a single touch or single swipe.

33 3. Except as otherwise provided in this section, while operating a noncommercial
34 motor vehicle or commercial motor vehicle on any highway or property open to the
35 public for vehicular traffic in this state, no operator shall:

36 (1) Physically hold or support, with any part of his or her body, an electronic
37 communication device;

38 (2) Write, send, or read any text-based communication, including but not limited
39 to a text message, instant message, email, or social media interaction on an electronic
40 communication device. This subdivision shall not apply to operators of a
41 noncommercial motor vehicle using a voice-operated or hands-free feature or
42 function that converts the message to be sent as a message in a written form,
43 provided that the operator does not divert his or her attention from lawful operation of
44 the vehicle;

45 (3) Make any communication on an electronic communication device, including
46 a phone call, voice message, or one-way voice communication; provided however, that
47 this prohibition shall not apply to use of a voice-operated or hands-free feature or
48 function;

49 (4) Engage in any form of electronic data retrieval or electronic data
50 communication on an electronic communication device;

51 (5) Manually enter letters, numbers, or symbols into any website, search engine,
52 or application on an electronic communication device;

53 (6) Watch a video or movie on an electronic communication device, other than
54 watching data related to the navigation of the vehicle; or

55 (7) Record, post, send, or broadcast video, including a video conference, on an
56 electronic communication device, provided that this prohibition shall not apply to
57 electronic devices used for the sole purpose of continually monitoring operator behavior
58 by recording or broadcasting video within or outside the vehicle.

59 4. The operator of a school bus shall not use or operate an electronic
60 communication device while the school bus is in motion unless the device is being used in
61 a similar manner as a two-way radio to allow live communication between the operator
62 and school officials or public safety officials. The operator of a school bus shall not use

63 or operate an electronic communication device or a two-way radio while loading or
64 unloading passengers.

65 **5. This section shall not apply to:**

66 **(1) Law enforcement officers or operators of emergency vehicles, as such term is**
67 **defined in section 304.022, who are both using the electronic communication device and**
68 **operating the emergency vehicle in the performance of their official duties;**

69 **(2) Operators using an electronic communication device for the sole purpose of**
70 **reporting an emergency situation and continuing communication with emergency**
71 **personnel during the emergency situation;**

72 **(3) Operators of noncommercial motor vehicles using an electronic**
73 **communication device solely through a voice-operated or hands-free feature or**
74 **function;**

75 **(4) Operators of commercial motor vehicles using a voice-operated or hands-free**
76 **feature or function, as long as the operator remains seated and is restrained by a seat**
77 **belt as required by law;**

78 **(5) Operators of commercial motor vehicles reading a message displayed on a**
79 **permanently installed communication device designed for a commercial motor vehicle**
80 **with a screen that does not exceed ten inches tall by ten inches wide in size;**

81 **(6) Operators using electronic communication devices while the vehicle is**
82 **lawfully stopped or parked;**

83 **(7) Commercial motor vehicles that are responding to a request for roadside**
84 **assistance, when such response is conducted by a motor club as defined in section**
85 **385.450 or a towing company as defined in section 304.001;**

86 **(8) The use of an electronic communication device to relay information between**
87 **a transit or for-hire vehicle operator and that operator's dispatcher, provided the device**
88 **is mounted or affixed to the vehicle;**

89 **(9) The use of an electronic communication device to access or view a map for**
90 **navigational purposes;**

91 **(10) The use of an electronic communication device to access or listen to an audio**
92 **broadcast or digital audio recording; or**

93 **(11) The use of an electronic communication device to relay information through**
94 **a transportation network company's digital network to a transportation network**
95 **company driver, provided the device is mounted or affixed to the vehicle.**

96 **6. Except as otherwise provided in this subsection, violation of this section shall**
97 **be an infraction. Penalties for violations of this section shall be as provided in this**
98 **subsection. Prior convictions shall be pleaded and proven in the same manner as**
99 **required under section 558.021.**

100 **(1) For a conviction under this section where there is no prior conviction under**
101 **this section within the preceding twenty-four months, the court shall impose a fine of up**
102 **to one hundred fifty dollars.**

103 **(2) For a conviction under this section where there is one prior conviction under**
104 **this section within the preceding twenty-four months, the court shall impose a fine of up**
105 **to two hundred fifty dollars.**

106 **(3) For a conviction under this section where there are two or more prior**
107 **convictions under this section in the preceding twenty-four months, the court shall**
108 **impose a fine of up to five hundred dollars.**

109 **(4) For a conviction under this section where the violation occurred in a work**
110 **zone when workers are present, as such terms are defined in section 304.580, or for a**
111 **conviction under this section where the violation occurred in an area designated as a**
112 **school zone and marked in any way that would alert a reasonably prudent operator to**
113 **the presence of the school zone, the court shall impose a fine of up to five hundred**
114 **dollars.**

115 **(5) A violation of this section that is the proximate cause of damage to property**
116 **in excess of five thousand dollars shall be a class D misdemeanor.**

117 **(6) A violation of this section that is the proximate cause of serious physical**
118 **injury to another person shall be a class B misdemeanor.**

119 **(7) A violation of this section that is the proximate cause of the death of another**
120 **person shall be a class D felony.**

121 **(8) A violation of this section while operating a commercial motor vehicle shall**
122 **be deemed a serious traffic violation, as such term is defined in section 302.700, for**
123 **purposes of commercial driver's license disqualification under section 302.755.**

124 **7. A law enforcement officer who stops a noncommercial motor vehicle for a**
125 **violation of this section shall inform the operator of the operator's right to decline a**
126 **search of their electronic communication device and shall not access the electronic**
127 **communication device without a warrant, nor confiscate the device while awaiting**
128 **issuance of a warrant.**

129 **8. A violation of this section shall not be used to establish probable cause for any**
130 **other violation.**

131 **9. The provisions of this section shall be subject to the reporting requirements**
132 **set forth in section 590.650.**

133 **10. The state preempts the field of regulating the use of electronic**
134 **communication devices by the operators of commercial and noncommercial motor**
135 **vehicles. The provisions of this section shall supercede any local laws, ordinances,**
136 **orders, rules, or regulations enacted by a county, municipality, or other political**

137 **subdivision to regulate the use of electronic communication devices by the operator of a**
138 **commercial or noncommercial motor vehicle.**

139 **11. Prior to January 1, 2025, a law enforcement officer who stops a**
140 **noncommercial motor vehicle for a violation of this section shall not issue a citation**
141 **for a violation of this section and shall only issue a warning.**

142 **12. No person shall be stopped, inspected, or detained solely for a violation of**
143 **this section.**

407.812. 1. Any franchisor obtaining or renewing its license after August 28, 2010,
2 shall be bound by the provisions of the MVFP act and shall comply with it, and no franchise
3 agreement made, entered, modified, or renewed after August 28, 2010, shall avoid the
4 requirements of the MVFP act, or violate its provisions, and no franchise agreement shall be
5 performed after the date the franchisor's license is issued or renewed in such a manner that the
6 franchisor avoids or otherwise does not conform or comply with the requirements of the
7 MVFP act. Notwithstanding the effective date of any franchise agreement, all franchisor
8 licenses and renewals thereof are issued subject to all provisions of the MVFP act and chapter
9 301 and any regulations in effect upon the date of issuance, as well as all future provisions of
10 the MVFP act and chapter 301 and any regulations which may become effective during the
11 term of the license.

12 2. The provisions of the MVFP act shall apply to each franchise that a franchisor,
13 manufacturer, importer, or distributor has with a franchisee and all agreements between a
14 franchisee and a common entity or any person that is controlled by a franchisor.

15 **3. No dealer or manufacturer licensed in this state under sections 301.550 to**
16 **301.573 shall allow any subsidiary or related entity to engage in the business of selling**
17 **motor vehicles, as defined in section 301.010, to retail consumers in this state, except as**
18 **otherwise permitted by law. Any dealer or manufacturer licensed in this state shall have**
19 **standing to enforce the provisions of this subsection provided that a franchise**
20 **relationship exists between the parties.**

21 **4. No entity controlling, controlled by, or sharing a common parent entity or**
22 **sibling entity with a licensed dealer or manufacturer shall engage in the business of**
23 **selling motor vehicles to retail consumers in this state, except as permitted by sections**
24 **301.550 to 301.575 and the MVFP act. Any dealer or manufacturer licensed in this state**
25 **shall have standing to enforce the provisions of this subsection.**

26 **5. No dealer or manufacturer not licensed in this state under sections 301.550 to**
27 **301.575 shall engage in the business of selling motor vehicles to retail consumers in this**
28 **state, except as permitted by sections 301.550 to 301.575 and the MVFP act. Any dealer**
29 **or manufacturer in this state shall have standing to enforce the provisions of this**
30 **subsection, provided that a franchise relationship exists between the parties.**

31 **6. A manufacturer, importer, or distributor may engage in the business of selling**
32 **motor vehicles to retail consumers in this state from a dealership if the manufacturer,**
33 **importer, or distributor owned the dealership and first applies for a license for the**
34 **dealership on or before August 28, 2023, provided that the license is subsequently**
35 **granted, and the ownership or controlling interest of such dealership is not transferred,**
36 **sold, or conveyed to another person or entity required to be licensed under this chapter.**

407.828. 1. Notwithstanding any provision in a franchise to the contrary, each
2 franchisor shall specify in writing to each of its franchisees in this state the franchisee's
3 obligations for preparation, delivery, and warranty service on its products. The franchisor
4 shall fairly and reasonably compensate the franchisee for preparation, delivery, and warranty
5 service required of the franchisee by the franchisor. The franchisor shall provide the
6 franchisee with the schedule of compensation to be paid to the franchisee for parts, labor, and
7 service, and the time allowance for the performance of the labor and service for the
8 franchisee's obligations for preparation, delivery, and warranty service.

9 2. The schedule of compensation shall include reasonable compensation for
10 diagnostic work, as well as repair service and labor for the franchisee to meet its obligations
11 for preparation, delivery, and warranty service. The schedule shall also include reasonable
12 and adequate time allowances for the diagnosis and performance of preparation, delivery, and
13 warranty service to be performed in a careful and professional manner. In the determination
14 of what constitutes reasonable compensation for labor and service pursuant to this section, the
15 principal factor to be given consideration shall be the prevailing wage rates being charged for
16 similar labor and service by ~~[franchisees in the market in which the franchisee is doing~~
17 ~~business, and in no event shall the compensation of a franchisee for labor and service be less~~
18 ~~than the rates charged by]~~ the franchisee for similar labor and service to retail customers for
19 nonwarranty labor and service~~[-, provided that such rates are reasonable].~~ The primary factor
20 in determining ~~[a fair and]~~ reasonable compensation for parts under this section shall be the
21 ~~[prevailing amount charged for similar parts by other same line make franchisees in the~~
22 ~~market in which the franchisee is doing business and the fair and reasonable compensation for~~
23 ~~parts shall not be less than the]~~ amount charged by the franchisee for similar parts to retail
24 customers for nonwarranty parts~~[-, provided that such rates are reasonable. If another same~~
25 ~~line make franchisee is not available within the market, then the prevailing amount charged~~
26 ~~for similar parts by other franchisees in the market shall be used as the primary factor].~~

27 3. A franchisor shall perform all warranty obligations, including recall notices;
28 include in written notices of franchisor recalls to new motor vehicle owners and franchisees
29 the expected date by which necessary parts and equipment will be available to franchisees for
30 the correction of the defects; and ~~[reasonably]~~ compensate any of the franchisees in this state

31 for repairs required by the recall. ~~[Reasonable]~~ Compensation for parts~~[,]~~ **and** labor~~[, and~~
32 ~~service]~~ **for recall repairs** shall be determined under subsection 2 of this section.

33 4. No franchisor shall require a franchisee to submit a claim authorized under this
34 section sooner than thirty days after the franchisee completes the preparation, delivery, or
35 warranty service authorizing the claim for preparation, delivery, or warranty service. All
36 claims made by a franchisee under this section shall be paid within thirty days after their
37 approval. All claims shall be either approved or disapproved by the franchisor within thirty
38 days after their receipt on a proper form generally used by the franchisor and containing the
39 usually required information therein. Any claims not specifically disapproved in writing
40 within thirty days after the receipt of the form shall be considered to be approved and
41 payment shall be made within fifteen days thereafter. A franchisee shall not be required to
42 maintain defective parts for more than thirty days after submission of a claim.

43 5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or
44 service promotion events, including but not limited to, rebates, programs, or activities in
45 accordance with established written guidelines for such events, programs, or activities, which
46 guidelines shall be provided to each franchisee.

47 6. No franchisor shall require a franchisee to submit a claim authorized under
48 subsection 5 of this section sooner than thirty days after the franchisee becomes eligible to
49 submit the claim. All claims made by a franchisee pursuant to subsection 5 of this section for
50 promotion events, including but not limited to rebates, programs, or activities shall be paid
51 within ten days after their approval. All claims shall be either approved or disapproved by the
52 franchisor within thirty days after their receipt on a proper form generally used by the
53 franchisor and containing the usually required information therein. Any claim not
54 specifically disapproved in writing within thirty days after the receipt of this form shall be
55 considered to be approved and payment shall be made within ~~[ten]~~ **fifteen** days.

56 7. In calculating the retail rate customarily charged by the franchisee for parts,
57 service, and labor, the following work shall not be included in the calculation:

58 (1) Repairs for franchisor, manufacturer, or distributor special events, specials, or
59 promotional discounts for retail customer repairs;

60 (2) Parts sold at wholesale;

61 (3) Engine assemblies and transmission assemblies;

62 (4) Routine maintenance not covered under any retail customer warranty, such as
63 fluids, filters, and belts not provided in the course of repairs;

64 (5) Nuts, bolts, fasteners, and similar items that do not have an individual part
65 number;

66 (6) Tires; and

67 (7) Vehicle reconditioning.

68 8. If a franchisor, manufacturer, importer, or distributor furnishes a part or component
69 to a franchisee, at no cost, to use in performing repairs under a recall, campaign service
70 action, or warranty repair, the franchisor shall compensate the franchisee for the part or
71 component in the same manner as warranty parts compensation under this section by
72 compensating the franchisee at the average markup on the cost for the part or component as
73 listed in the price schedule of the franchisor, manufacturer, importer, or distributor, less the
74 cost for the part or component. **This subsection shall not apply to entire engine
75 assemblies, propulsion engine assemblies, including electric vehicle batteries, or entire
76 transmission assemblies.**

77 9. A franchisor shall not require a franchisee to establish the retail rate customarily
78 charged by the franchisee for parts, service, or labor by an unduly burdensome or time-
79 consuming method or by requiring information that is unduly burdensome or time consuming
80 to provide, including, but not limited to, part-by-part or transaction-by-transaction
81 calculations. A franchisee shall not request a franchisor to approve a different labor rate
82 or parts rate more than twice in one calendar year.

83 10. If a franchisee submits any claim under this section to a franchisor that is
84 incomplete, inaccurate, or lacking any information usually required by the franchisor, then the
85 franchisor shall promptly notify the franchisee, and the time limit to submit the claim shall be
86 extended for a reasonable length of time, not less than five business days following notice by
87 the franchisor to the franchisee, for the franchisee to provide the complete, accurate, or
88 lacking information to the franchisor.

89 11. (1) A franchisor may only audit warranty, sales, or incentive claims and charge-
90 back to the franchisee unsubstantiated claims for a period of twelve months following
91 payment, subject to all of the provisions of this section. Furthermore, if the franchisor has
92 good cause to believe that a franchisee has submitted fraudulent claims, then the franchisor
93 may only audit suspected fraudulent warranty, sales, or incentive claims and charge-back to
94 the franchisee fraudulent claims for a period of two years following payment, subject to all
95 provisions of this section.

96 (2) A franchisor shall not require documentation for warranty, sales, or incentive
97 claims more than twelve months after the claim was paid.

98 (3) Prior to requiring any charge-back, reimbursement, or credit against a future
99 transaction arising out of an audit, the franchisor shall submit written notice to the franchisee
100 along with a copy of its audit and the detailed reason for each intended charge-back,
101 reimbursement, or credit.

102 **12.** A franchisee may file a complaint with the administrative hearing commission
103 **pursuant to section 407.822** within ~~thirty~~ **sixty** days after receipt of any ~~such~~ written
104 notice ~~[challenging such action]~~ **by a franchisor of any adverse decision on any claim for**

105 reimbursement submitted pursuant to this section, including, but not limited to, specific
 106 claims for reimbursement in individual warranty repair transactions, and requests for
 107 an increase in labor or parts rate. If a complaint is filed within the ~~[thirty]~~ sixty days, then
 108 the ~~[charge-back, reimbursement, or credit]~~ denial or reduction of reimbursement, denial
 109 of a request for an increase in labor or parts rate, charge-back, or other determination
 110 by a franchisor which is adverse to a franchisee shall be stayed pending a hearing and
 111 determination of the matter under section 407.822. **The franchisor shall file an answer to**
 112 **the complaint within thirty days after service of the complaint. If, following a hearing**
 113 **which shall be held within sixty days following service of the franchisor's answer, the**
 114 administrative hearing commission determines that ~~[any portion of the charge-back,~~
 115 ~~reimbursement, or credit is improper, then that portion of the charge-back, reimbursement,~~
 116 ~~or credit shall be void and not allowed]~~ a franchisor has violated any requirements of this
 117 section, then the denial or reduction of reimbursement, denial of a request for an
 118 increase in labor or parts rate, or charge-back shall be void and the franchisor shall,
 119 within fifteen days of the commission's order, fairly compensate the franchisee as
 120 required by the provisions of this section. Section 407.835 shall apply to proceedings
 121 pursuant to this section.

2 ~~[304.820. 1. Except as otherwise provided in this section, no person~~
 3 ~~twenty-one years of age or younger operating a moving motor vehicle upon~~
 4 ~~the highways of this state shall, by means of a hand held electronic wireless~~
 5 ~~communications device, send, read, or write a text message or electronic~~
 6 ~~message.~~
 7 ~~2. Except as otherwise provided in this section, no person shall operate~~
 8 ~~a commercial motor vehicle while using a hand held mobile telephone.~~
 9 ~~3. Except as otherwise provided in this section, no person shall operate~~
 10 ~~a commercial motor vehicle while using a wireless communications device to~~
 11 ~~send, read, or write a text message or electronic message.~~
 12 ~~4. The provisions of subsection 1 through subsection 3 of this section~~
 13 ~~shall not apply to a person operating:~~
 14 ~~(1) An authorized emergency vehicle; or~~
 15 ~~(2) A moving motor vehicle while using a hand held electronic~~
 16 ~~wireless communications device to:~~
 17 ~~(a) Report illegal activity;~~
 18 ~~(b) Summon medical or other emergency help;~~
 19 ~~(c) Prevent injury to a person or property; or~~
 20 ~~(d) Relay information between a transit or for-hire operator and that~~
 21 ~~operator's dispatcher, in which the device is permanently affixed to the vehicle.~~
 22 ~~5. Nothing in this section shall be construed or interpreted as~~
 23 ~~prohibiting a person from making or taking part in a telephone call, by means~~
 24 ~~of a hand held electronic wireless communications device, while operating a~~
~~noncommercial motor vehicle upon the highways of this state.~~

25 6. ~~As used in this section, "electronic message" means a self-contained~~
26 ~~piece of digital communication that is designed or intended to be transmitted~~
27 ~~between hand-held electronic wireless communication devices. "Electronic~~
28 ~~message" includes, but is not limited to, electronic mail, a text message, an~~
29 ~~instant message, or a command or request to access an internet site.~~

30 7. ~~As used in this section, "hand-held electronic wireless~~
31 ~~communications device" includes any hand-held cellular phone, palm pilot,~~
32 ~~blackberry, or other mobile electronic device used to communicate verbally or~~
33 ~~by text or electronic messaging, but shall not apply to any device that is~~
34 ~~permanently embedded into the architecture and design of the motor vehicle.~~

35 8. ~~As used in this section, "making or taking part in a telephone call"~~
36 ~~means listening to or engaging in verbal communication through a hand held~~
37 ~~electronic wireless communication device.~~

38 9. ~~As used in this section, "send, read, or write a text message or~~
39 ~~electronic message" means using a hand held electronic wireless~~
40 ~~telecommunications device to manually communicate with any person by~~
41 ~~using an electronic message. Sending, reading, or writing a text message or~~
42 ~~electronic message does not include reading, selecting, or entering a phone~~
43 ~~number or name into a hand-held electronic wireless communications device~~
44 ~~for the purpose of making a telephone call.~~

45 10. ~~A violation of this section shall be deemed an infraction and shall~~
46 ~~be deemed a moving violation for purposes of point assessment under section~~
47 ~~302.302.~~

48 11. ~~The state preempts the field of regulating the use of hand-held~~
49 ~~electronic wireless communications devices in motor vehicles, and the~~
50 ~~provisions of this section shall supercede any local laws, ordinances, orders,~~
51 ~~rules, or regulations enacted by a county, municipality, or other political~~
52 ~~subdivision to regulate the use of hand-held electronic wireless~~
53 ~~communication devices by the operator of a motor vehicle.~~

54 12. ~~The provisions of this section shall not apply to:~~

55 (1) ~~The operator of a vehicle that is lawfully parked or stopped;~~

56 (2) ~~Any of the following while in the performance of their official~~
57 ~~duties: a law enforcement officer; a member of a fire department; or the~~
58 ~~operator of a public or private ambulance;~~

59 (3) ~~The use of factory installed or aftermarket global positioning~~
60 ~~systems (GPS) or wireless communications devices used to transmit or receive~~
61 ~~data as part of a digital dispatch system;~~

62 (4) ~~The use of voice operated technology;~~

63 (5) ~~The use of two-way radio transmitters or receivers by a licensee of~~
64 ~~the Federal Communications Commission in the Amateur Radio Service.]~~

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