

FIRST REGULAR SESSION

# HOUSE BILL NO. 116

## 91ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE HICKEY.

Pre-filed December 11, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0659L.011

---

### AN ACT

To repeal sections 144.010, 144.020 and 144.440, RSMo 2000, relating to sales taxation, and to enact in lieu thereof three new sections relating to the same subject, with an effective date.

---

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

Section A. Sections 144.010, 144.020 and 144.440, RSMo 2000, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 144.010, 144.020 and 144.440, to  
3 read as follows:

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to  
2 144.525 have the meanings ascribed to them in this section, except when the context indicates  
3 a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and other similar  
5 accommodations and charges made therefor and amount paid for admission, exclusive of any  
6 admission tax imposed by the federal government or by sections 144.010 to 144.525;

7 (2) "Business" includes any activity engaged in by any person, or caused to be engaged  
8 in by [him] **any person**, with the object of gain, benefit or advantage, either direct or indirect,  
9 and the classification of which business is of such character as to be subject to the terms of  
10 sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, **a**  
11 **motor vehicle**, service, substance, or thing, by a person not engaged in such business, does not  
12 constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the  
13 total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible  
14 personal property **or of a motor vehicle** by persons which property is sold in the course of the

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

15 partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three  
16 thousand dollars in any calendar year. The provisions of this subdivision shall not be construed  
17 to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject  
18 to that tax thereafter;

19 (3) "Gross receipts", except as provided in section 144.012, means the total amount of  
20 the sale price of the sales at retail including any services other than charges incident to the  
21 extension of credit that are a part of such sales made by the businesses herein referred to, capable  
22 of being valued in money, whether received in money or otherwise; except that, the term "gross  
23 receipts" shall not include the sale price of property returned by customers when the full sale  
24 price thereof is refunded either in cash or by credit. In determining any tax due [under] **pursuant**  
25 **to** sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit  
26 shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount  
27 of the sale price above mentioned shall be deemed to be the amount received. It shall also  
28 include the lease or rental consideration where the right to continuous possession or use of any  
29 article of tangible personal property **or a motor vehicle** is granted under a lease or contract and  
30 such transfer of possession would be taxable if outright sale were made and, in such cases, the  
31 same shall be taxable as if outright sale were made and considered as a sale of such article, and  
32 the tax shall be computed and paid by the lessee upon the rentals paid;

33 (4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,  
34 ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as  
35 obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised  
36 in confinement for human consumption;

37 (5) "Motor vehicle leasing company" shall be a company obtaining a permit from the  
38 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or  
39 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to  
40 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section  
41 144.070, as hereinafter provided;

42 (6) "Person" includes any individual, firm, copartnership, joint adventure, association,  
43 corporation, municipal or private, and whether organized for profit or not, state, county, political  
44 subdivision, state department, commission, board, bureau or agency, except the state  
45 transportation department, estate, trust, business trust, receiver or trustee appointed by the state  
46 or federal court, syndicate, or any other group or combination acting as a unit, and the plural as  
47 well as the singular number;

48 (7) "Purchaser" means a person who purchases tangible personal property **or a motor**  
49 **vehicle** or to whom are rendered services, receipts from which are taxable [under] **pursuant to**  
50 sections 144.010 to 144.525;

51 (8) "Research or experimentation activities", are the development of an experimental or  
52 pilot model, plant process, formula, invention or similar property, and the improvement of  
53 existing property of such type. Research or experimentation activities do not include activities  
54 such as ordinary testing or inspection of materials or products for quality control, efficiency  
55 surveys, advertising promotions or research in connection with literary, historical or similar  
56 projects;

57 (9) "Sale" or "sales" includes installment and credit sales, and the exchange of properties  
58 as well as the sale thereof for money, every closed transaction constituting a sale, and means any  
59 transfer, exchange or barter, conditional or otherwise, in any manner or by any means  
60 whatsoever, of tangible personal property **or a motor vehicle** for valuable consideration and the  
61 rendering, furnishing or selling for a valuable consideration any of the substances, things and  
62 services herein designated and defined as taxable [under the terms of] **pursuant to** sections  
63 144.010 to 144.525;

64 (10) "Sale at retail" means any transfer made by any person engaged in business as  
65 defined herein of the ownership of, or title to, tangible personal property **or a motor vehicle** to  
66 the purchaser, for use or consumption and not for resale in any form as tangible personal property  
67 **or as a motor vehicle**, for a valuable consideration; except that, for the purposes of sections  
68 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property **or**  
69 **a motor vehicle** made by duly licensed physicians, dentists, optometrists and veterinarians and  
70 used in the practice of their professions shall be deemed to be purchases for use or consumption  
71 and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or  
72 microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to  
73 obtain for his or her own use the desired information contained in such computer printouts,  
74 computer output on microfilm or microfiche and computer-assisted photo compositions shall be  
75 considered as the sale of a service and not as the sale of tangible personal property. Where  
76 necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby,  
77 the term "sale at retail" shall be construed to embrace:

78 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of  
79 amusement, entertainment and recreation, games and athletic events;

80 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,  
81 commercial or industrial consumers;

82 (c) Sales of local and long distance telecommunications service to telecommunications  
83 subscribers and to others through equipment of telecommunications subscribers for the  
84 transmission of messages and conversations, and the sale, rental or leasing of all equipment or  
85 services pertaining or incidental thereto;

86 (d) Sales of service for transmission of messages by telegraph companies;

87 (e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern,  
88 inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in  
89 which rooms, meals or drinks are regularly served to the public;

90 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express  
91 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and  
92 railroad safety of the department of economic development of Missouri, engaged in the  
93 transportation of persons for hire;

94 (11) "Seller" means a person selling or furnishing tangible personal property **or a motor**  
95 **vehicle** or rendering services, on the receipts from which a tax is imposed pursuant to section  
96 144.020;

97 (12) The noun "tax" means either the tax payable by the purchaser of a commodity or  
98 service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities  
99 or services during the period for which he or she is required to report his or her collections, as  
100 the context may require;

101 (13) "Telecommunications service", for the purpose of chapter 144, the transmission of  
102 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar  
103 means. As used in this definition, "information" means knowledge or intelligence represented  
104 by any form of writing, signs, signals, pictures, sounds, or any other symbols.  
105 Telecommunications service does not include the following if such services are separately stated  
106 on the customer's bill:

107 (a) Access to the Internet, access to interactive computer services or electronic  
108 publishing services, except the amount paid for the telecommunications service used to provide  
109 such access;

110 (b) Answering services and one-way paging services;

111 (c) Private mobile radio services which are not two-way commercial mobile radio  
112 services such as wireless telephone, personal communications services or enhanced specialized  
113 mobile radio services as defined pursuant to federal law; or

114 (d) Cable or satellite television or music services; and

115 (14) "Product which is intended to be sold ultimately for final use or consumption"  
116 means tangible personal property, or any service that is subject to state or local sales or use taxes,  
117 or any tax that is substantially equivalent thereto, in this state or any other state.

118 2. For purposes of the taxes imposed [under] **pursuant to** sections 144.010 to 144.525,  
119 and any other provisions of law pertaining to sales or use taxes which incorporate the provisions  
120 of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same  
121 meaning given it in section 700.010, RSMo.

122 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property **or a motor vehicle** or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) **Except as provided in subdivision (9) of this subsection**, upon every retail sale in this state of tangible personal property, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

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

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

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

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

(8) **Except as provided in subdivision (9) of this subsection**, a tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the

37 property under the conditions of "sale at retail" as defined in subdivision (8) of section 144.010  
38 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the  
39 lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease,  
40 sublease, rental or subrental receipts from that property. The purchase or use of [motor vehicles,]  
41 trailers, boats, and outboard motors shall be taxed and the tax paid as provided in sections  
42 144.070 and 144.440. No tax shall be collected on the rental or lease of [motor vehicles,]  
43 trailers, boats, and outboard motors, except as provided in sections 144.070 and 144.440. In no  
44 event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee  
45 to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease  
46 be subject to any tax imposed to, for, or in such places of amusement, entertainment or  
47 recreation. Rental and leased boats or outboard motors shall be taxed [under] **pursuant to** the  
48 provisions of the sales tax laws as provided [under] **by** such laws for motor vehicles and trailers.  
49 Tangible personal property which is exempt from the sales or use tax [under] **pursuant to**  
50 section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease  
51 or rental thereof[.];

52 **(9) Upon every retail sale in this state of a motor vehicle, a tax equivalent to two**  
53 **percent of the purchase price paid or charged, or a tax equivalent to two percent of the**  
54 **amount paid or charged for rental or lease of a motor vehicle; provided, that if the lessor**  
55 **or renter of any motor vehicle had previously purchased the vehicle under the conditions**  
56 **of "sale at retail" as defined in subdivision (8) of section 144.010 or leased or rented the**  
57 **vehicle and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,**  
58 **renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease,**  
59 **rental or subrental receipts from that vehicle. The purchase or use of motor vehicles shall**  
60 **be taxed and the tax paid as provided in sections 144.070 and 144.440. No tax shall be**  
61 **collected on the rental or lease of motor vehicles except as provided in sections 144.070 and**  
62 **144.440. Motor vehicles which are exempt from the sales or use tax pursuant to section**  
63 **144.030 upon a sale thereof are likewise exempt from the sales or use tax upon the lease or**  
64 **rental thereof.**

65 2. All tickets sold which are sold [under] **pursuant to** the provisions of sections 144.010  
66 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed  
67 thereon, the words "This ticket is subject to a sales tax."

144.440. 1. In addition to all other taxes now or hereafter levied and imposed upon  
2 every person for the privilege of using the highways or waterways of this state, there is hereby  
3 levied and imposed a tax equivalent to four percent of the purchase price, as defined in section  
4 144.070, which is paid or charged on new and used [motor vehicles,] trailers, boats, and outboard  
5 motors, **and a tax equivalent to two percent of the purchase price, as defined in section**

6 **144.070, which is paid or charged on new and used motor vehicles, when such trailers,**  
7 **boats, outboard motors and motor vehicles are** purchased or acquired for use on the highways  
8 or waters of this state [which] **and** are required to be registered [under] **pursuant to** the laws of  
9 the state of Missouri.

10 2. At the time the owner of any such motor vehicle, trailer, boat, or outboard motor  
11 makes application to the director of revenue for an official certificate of title and the registration  
12 of the same as otherwise provided by law, [he] **the owner** shall present to the director of revenue  
13 evidence satisfactory to the director showing the purchase price paid by or charged to the  
14 applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that the  
15 motor vehicle, trailer, boat, or outboard motor is not subject to the tax herein provided and, if the  
16 motor vehicle, trailer, boat, or outboard motor is subject to the tax herein provided, the applicant  
17 shall pay or cause to be paid to the director of revenue the tax provided herein.

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

21 4. No certificate of title shall be issued for such motor vehicle, trailer, boat, or outboard  
22 motor unless the tax for the privilege of using the highways or waters of this state has been paid  
23 or the vehicle, trailer, boat, or outboard motor is registered [under] **pursuant to** the provisions  
24 of subsection 5 of this section.

25 5. The owner of any motor vehicle, trailer, boat, or outboard motor which is to be used  
26 exclusively for rental or lease purposes may pay the tax due thereon required in section 144.020  
27 at the time of registration or in lieu thereof may pay a use tax as provided in sections 144.010,  
28 144.020, 144.070 and 144.440. A use tax shall be charged and paid on the amount charged for  
29 each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is  
30 domiciled in the state. If the owner elects to pay upon each rental or lease, [he] **the owner** shall  
31 make an affidavit to that effect in such form as the director of revenue shall require and shall  
32 remit the tax due at such times as the director of revenue shall require.

33 6. In the event that any leasing company which rents or leases motor vehicles, trailers,  
34 boats, or outboard motors elects to collect a use tax, all of its lease receipt would be subject to  
35 the use tax, regardless of whether or not the leasing company previously paid a sales tax when  
36 the vehicle, trailer, boat, or outboard motor was originally purchased.

37 7. The provisions of this section, and the tax imposed by this section, shall not apply to  
38 manufactured homes.

Section B. Section A of this act shall become effective on January 1, 2002.