

SECOND REGULAR SESSION

HOUSE BILL NO. 1046

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MEINERS (Sponsor), VOGT, WALKER, CURLS, SKAGGS,
MUCKLER AND WALSH (Co-sponsors).

Read 1st time January 13, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3499L.011

AN ACT

To amend chapter 144, RSMo, by adding thereto one new section relating to a tax on adult entertainment products and services.

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

Section A. Chapter 144, RSMo, is amended by adding thereto one new section, to be
2 known as section 144.1050, to read as follows:

144.1050. 1. This section shall be known and may be cited as the "Adult
2 Entertainment Tax Act".

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

4 (1) "Actual sexually explicit conduct", any of the following actual, but not
5 simulated conduct as defined in Section 2257 of Title 18 of the United States Code:

6 (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
7 oral-anal, whether between persons of the same or opposite sex;

8 (b) Bestiality;

9 (c) Masturbation;

10 (d) Sadistic or masochistic abuse; or

11 (e) Lascivious exhibition of the genitals of pubic area of any person;

12 (2) "Adult entertainment products and services", includes any matter that includes
13 actual sexually explicit conduct and is subject to the requirements of Section 2257 of Title
14 18 of the United States Code;

15 (3) "Disclosure statement", the statement required under subsection (e) of Section
16 2257 of Title 18 of the United States Code.

17 3. In addition to any tax imposed in this chapter, for the privilege of selling adult
18 entertainment products at retail, a tax is hereby imposed upon all retailers at the rate of

19 five percent of the gross receipts from the retail sale in this state on or after January 1,
20 2005, of all adult entertainment products.

21 4. In addition to any tax imposed in this chapter, an excise tax is hereby imposed
22 on the storage, use, or other consumption in this state of adult entertainment products
23 purchased from any retailer on or after January 1, 2004, for the storage, use, or other
24 consumption in this state, at the rate of five percent of the sales price of those products.
25 The tax provided for in this subsection shall not be imposed upon the storage, use, or other
26 consumption of any adult entertainment product or service that was purchased from a
27 retailer that paid the tax imposed by subsection 3 with respect to the retail sale of that
28 product or service.

29 5. The tax imposed by this section shall not be imposed upon any Internet service
30 provider or commercial on-line service provider carrying or transmitting messages or
31 images described in this section or performing related activities in providing on-line
32 services.

33 6. Retailers shall collect the tax imposed in this section on any adult entertainment
34 products or services described in subdivision (2) of subsection 2 of this section that include
35 or bear the disclosure statement defined in subdivision (3) of subsection 2 of this section.

36 7. To the extent feasible or practicable, the provisions of this chapter shall govern
37 determinations, collections of tax, overpayments and refunds, and administration pursuant
38 to this section.

39 8. The department of revenue shall enforce this section, and may promulgate rules
40 and regulations necessary to administer and enforce this section. No rule or portion of a
41 rule promulgated pursuant to the authority of this section shall become effective unless it
42 has been promulgated pursuant to chapter 536, RSMo.