

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 823,  
2 Page 1, Section A, Line 3, by inserting after all of said section and line the following:  
3

4 "144.010. 1. The following words, terms, and phrases when used in sections 144.010 to  
5 144.525 have the meanings ascribed to them in this section, except when the context indicates a  
6 different meaning:

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

10 (2) "Business" includes any activity engaged in by any person, or caused to be engaged in  
11 by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification  
12 of which business is of such character as to be subject to the terms of sections 144.010 to 144.525.  
13 A person is "engaging in business" in this state for purposes of sections 144.010 to 144.525 if such  
14 person "engages in business in this state" or "maintains a place of business in this state" under  
15 section 144.605. The isolated or occasional sale of tangible personal property, service, substance, or  
16 thing, by a person not engaged in such business, does not constitute engaging in business within the  
17 meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such  
18 sales, exclusive of receipts from the sale of tangible personal property by persons which property is  
19 sold in the course of the partial or complete liquidation of a household, farm or nonbusiness  
20 enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision  
21 shall not be construed to make any sale of property which is exempt from sales tax or use tax on  
22 June 1, 1977, subject to that tax thereafter;

23 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge,  
24 northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer, captive  
25 elk, and captive furbearers held under permit issued by the Missouri department of conservation for  
26 hunting purposes. The provisions of this subdivision shall not apply to sales tax on a harvested  
27 animal;

28 (4) "Gross receipts", except as provided in section 144.012, means the total amount of the  
29 sale price of the sales at retail including any services other than charges incident to the extension of  
30 credit that are a part of such sales made by the businesses herein referred to, capable of being valued

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1 in money, whether received in money or otherwise; except that, the term "gross receipts" shall not  
2 include the sale price of property returned by customers when the full sale price thereof is refunded  
3 either in cash or by credit. In determining any tax due under sections 144.010 to 144.525 on the  
4 gross receipts, charges incident to the extension of credit shall be specifically exempted. For the  
5 purposes of sections 144.010 to 144.525 the total amount of the sale price above mentioned shall be  
6 deemed to be the amount received. It shall also include the lease or rental consideration where the  
7 right to continuous possession or use of any article of tangible personal property is granted under a  
8 lease or contract and such transfer of possession would be taxable if outright sale were made and, in  
9 such cases, the same shall be taxable as if outright sale were made and considered as a sale of such  
10 article, and the tax shall be computed and paid by the lessee upon the rentals paid;

11 (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich  
12 and emu, aquatic products as [defined] described in section 277.024, llamas, alpaca, buffalo, elk  
13 documented as obtained from a legal source and not from the wild, goats, horses, other equine, or  
14 rabbits raised in confinement for human consumption;

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

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

26 (8) "Purchaser" means a person who purchases tangible personal property or to whom are  
27 rendered services, receipts from which are taxable under sections 144.010 to 144.525;

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

33 (10) "Sale" or "sales" includes installment and credit sales, and the exchange of properties  
34 as well as the sale thereof for money, every closed transaction constituting a sale, and means any  
35 transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever,  
36 of tangible personal property for valuable consideration and the rendering, furnishing or selling for  
37 a valuable consideration any of the substances, things and services herein designated and defined as  
38 taxable under the terms of sections 144.010 to 144.525;

39 (11) "Sale at retail" means any transfer made by any person engaged in business as defined  
40 herein of the ownership of, or title to, tangible personal property to the purchaser, for use or  
41 consumption and not for resale in any form as tangible personal property, for a valuable

consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer-assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets[, cash admissions,] and charges and fees for admission to [or in places of amusement, entertainment and recreation, games and athletic events] spectate or for the purpose of reselling to spectate sporting events, dance performances, theater performances, orchestra, concerts, and other performing arts productions and amounts paid for admission to racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, go-karts, miniature golf, zip lines, individual stand-alone amusement rides, and other tourist excursions. Such sales shall not include the amount paid or fees paid to or in any place having an exemption under subdivision (20), (21), or (22) of subsection 2 of section 144.030;

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

(c) 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 the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

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

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

(f) Sales of 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;

(12) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

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

(14) "Telecommunications service", for the purpose of this chapter, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means.

As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill or on records of the seller maintained in the ordinary course of business:

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

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

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

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

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

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

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

144.018. 1. Notwithstanding any other provision of law to the contrary, except as provided under subsection 2 or 3 of this section, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is:

(1) Subject to a tax in this or any other state;

(2) For resale;

(3) Excluded from tax under this chapter;

(4) Subject to tax but exempt under this chapter; or

(5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of amusement, entertainment or recreation, including games or athletic events, shall remit tax on the amount paid for admissions or seating accommodations[, or fees paid] to[, or in] such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the place of amusement, entertainment, or recreation to remit tax on that sale. Such sales under subdivision (2) of subsection 1 of section 144.020 shall include sales of admission tickets and

charges and fees for admission to spectate or for the purpose of reselling to spectate sporting events, dance performances, theater performances, orchestra, concerts and other performing arts productions and amounts paid for admission to racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, go-karts, miniature golf, zip lines, individual stand-alone amusement rides, and other tourist excursions. Such sales shall not include the amount paid or fees paid to or in any place having an exemption under subdivision (20), (21), or (22) of subsection 2 of section 144.030.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, a 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 shall remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such 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. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the 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 to remit tax on that sale.

4. The provisions of this section are intended to reject and abrogate earlier case law interpretations of the state's sales and use tax law with regard to sales for resale as extended in *Music City Centre Management, LLC v. Director of Revenue*, 295 S.W.3d 465, (Mo. 2009) and *ICC Management, Inc. v. Director of Revenue*, 290 S.W.3d 699, (Mo. 2009). The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be titled under the laws of the state of Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this subsection, 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 tickets and [seating accommodations, or] charges and fees [paid] to[, or in any place of amusement, entertainment or recreation, games and athletic events] spectate or for the purpose of reselling to spectate sporting

1 events, dance performances, theater performances, orchestra, concerts and other performing arts  
2 productions and amounts paid for admission to racetracks, arcades, theme and amusement parks,  
3 water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, go-  
4 karts, miniature golf, zip lines, individual stand-alone amusement rides, and other tourist excursions.  
5 Such sales shall not include the amount paid or fees paid to or in any place having an exemption  
6 under subdivision (20), (21), or (22) of subsection 2 of section 144.030;

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

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

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

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

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

29 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of  
30 tangible personal property, provided that if the lessor or renter of any tangible personal property had  
31 previously purchased the property under the conditions of sale at retail or leased or rented the  
32 property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or  
33 subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental  
34 receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles,  
35 mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in  
36 this section and section 144.070. In no event shall the rental or lease of boats and outboard motors  
37 be considered a sale, charge, or fee to, for, or in places of amusement, entertainment or recreation  
38 nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of  
39 amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed  
40 under the provisions of the sales tax laws as provided under such laws for motor vehicles and  
41 trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030

1 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

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

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

10  
11 Further amend said bill by amending the title, enacting clause, and intersectional references  
12 accordingly.