

FIRST REGULAR SESSION

# HOUSE BILL NO. 129

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

0081H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales tax exemptions.

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

Section A. Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into

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.

18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or  
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will  
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at  
21 retail; economic poisons registered ~~[pursuant to the provisions of the Missouri pesticide~~  
22 ~~registration law (sections 281.220 to 281.310)]~~ **under sections 281.210 to 281.310, the**  
23 **Missouri pesticide registration act**, which are to be used in connection with the growth or  
24 production of crops, fruit trees or orchards applied before, during, or after planting, the crop of  
25 which when harvested will be sold at retail or will be converted into foodstuffs which are to be  
26 sold ultimately in processed form at retail;

27 (2) Materials, manufactured goods, machinery and parts which when used in  
28 manufacturing, processing, compounding, mining, producing or fabricating become a component  
29 part or ingredient of the new personal property resulting from such manufacturing, processing,  
30 compounding, mining, producing or fabricating and which new personal property is intended to  
31 be sold ultimately for final use or consumption; and materials, including without limitation,  
32 gases and manufactured goods, including without limitation slagging materials and firebrick,  
33 which are ultimately consumed in the manufacturing process by blending, reacting or interacting  
34 with or by becoming, in whole or in part, component parts or ingredients of steel products  
35 intended to be sold ultimately for final use or consumption;

36 (3) Materials, replacement parts and equipment purchased for use directly upon, and for  
37 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock  
38 or aircraft engaged as common carriers of persons or property;

39 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers  
40 pulled by such motor vehicles, that are actually used in the normal course of business to haul  
41 property on the public highways of the state, and that are capable of hauling loads commensurate  
42 with the motor vehicle's registered weight; and the materials, replacement parts, and equipment  
43 purchased for use directly upon, and for the repair and maintenance or manufacture of such  
44 vehicles. For purposes of this subdivision, motor vehicle and public highway shall have the  
45 meaning as ascribed in section 390.020;

46 (5) Replacement machinery, equipment, and parts and the materials and supplies solely  
47 required for the installation or construction of such replacement machinery, equipment, and  
48 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
49 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
50 the materials and supplies required solely for the operation, installation or construction of such  
51 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
52 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
53 recovery processing plant" means a facility that has as its primary purpose the recovery of

54 materials into a usable product or a different form which is used in producing a new product and  
55 shall include a facility or equipment which are used exclusively for the collection of recovered  
56 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
57 used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall  
58 have the same meaning pursuant to section 301.010. Material recovery is not the reuse of  
59 materials within a manufacturing process or the use of a product previously recovered. The  
60 material recovery processing plant shall qualify under the provisions of this section regardless  
61 of ownership of the material being recovered;

62 (6) Machinery and equipment, and parts and the materials and supplies solely required  
63 for the installation or construction of such machinery and equipment, purchased and used to  
64 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
65 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
66 which is intended to be sold ultimately for final use or consumption;

67 (7) Tangible personal property which is used exclusively in the manufacturing,  
68 processing, modification or assembling of products sold to the United States government or to  
69 any agency of the United States government;

70 (8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

71 (9) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and  
72 other machinery, equipment, replacement parts and supplies used in producing newspapers  
73 published for dissemination of news to the general public;

74 (10) The rentals of films, records or any type of sound or picture transcriptions for public  
75 commercial display;

76 (11) Pumping machinery and equipment used to propel products delivered by pipelines  
77 engaged as common carriers;

78 (12) Railroad rolling stock for use in transporting persons or property in interstate  
79 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or  
80 more or trailers used by common carriers, as defined in section 390.020, in the transportation of  
81 persons or property;

82 (13) Electrical energy used in the actual primary manufacture, processing, compounding,  
83 mining or producing of a product, or electrical energy used in the actual secondary processing  
84 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
85 (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
86 energy so used exceeds ten percent of the total cost of production, either primary or secondary,  
87 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
88 contain at least twenty-five percent recovered materials as defined in section 260.200. There  
89 shall be a rebuttable presumption that the raw materials used in the primary manufacture of

90 automobiles contain at least twenty-five percent recovered materials. For purposes of this  
91 subdivision, "processing" means any mode of treatment, act or series of acts performed upon  
92 materials to transform and reduce them to a different state or thing, including treatment necessary  
93 to maintain or preserve such processing by the producer at the production facility;

94 (14) Anodes which are used or consumed in manufacturing, processing, compounding,  
95 mining, producing or fabricating and which have a useful life of less than one year;

96 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
97 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies  
98 solely required for the installation, construction or reconstruction of such machinery, equipment,  
99 appliances and devices;

100 (16) Machinery, equipment, appliances and devices purchased or leased and used solely  
101 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
102 solely required for the installation, construction or reconstruction of such machinery, equipment,  
103 appliances and devices;

104 (17) Tangible personal property purchased by a rural water district;

105 (18) All amounts paid or charged for admission or participation or other fees paid by or  
106 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
107 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
108 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
109 municipality or other political subdivision and do not inure to any private person, firm, or  
110 corporation, provided, however, that a municipality or other political subdivision may enter into  
111 revenue-sharing agreements with private persons, firms, or corporations providing goods or  
112 services, including management services, in or for the place of amusement, entertainment or  
113 recreation, games or athletic events, and provided further that nothing in this subdivision shall  
114 exempt from tax any amounts retained by any private person, firm, or corporation under such  
115 revenue-sharing agreement;

116 (19) All sales of insulin, and all sales, rentals, repairs, and parts of durable medical  
117 equipment, prosthetic devices, and orthopedic devices as defined on January 1, 1980, by the  
118 federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including  
119 the items specified in Section 1862(a)(12) of that act (**42 U.S.C. Section 1395y, as amended**),  
120 and also specifically including hearing aids and hearing aid supplies and all sales of drugs which  
121 may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a  
122 practitioner licensed to administer those items, including samples and materials used to  
123 manufacture samples which may be dispensed by a practitioner authorized to dispense such  
124 samples and all sales or rental of medical oxygen, home respiratory equipment and accessories  
125 including parts, and hospital beds and accessories and ambulatory aids including parts, and all

126 sales or rental of manual and powered wheelchairs including parts, and stairway lifts, Braille  
127 writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with  
128 one or more physical or mental disabilities to enable them to function more independently, all  
129 sales or rental of scooters including parts, and reading machines, electronic print enlargers and  
130 magnifiers, electronic alternative and augmentative communication devices, and items used  
131 solely to modify motor vehicles to permit the use of such motor vehicles by individuals with  
132 disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities,  
133 and drugs required by the Food and Drug Administration to meet the over-the-counter drug  
134 product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care  
135 practitioner licensed to prescribe;

136 (20) All sales made by or to religious and charitable organizations and institutions in  
137 their religious, charitable or educational functions and activities and all sales made by or to all  
138 elementary and secondary schools operated at public expense in their educational functions and  
139 activities;

140 (21) All sales of aircraft to common carriers for storage or for use in interstate commerce  
141 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,  
142 including fraternal organizations which have been declared tax-exempt organizations pursuant  
143 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or  
144 charitable functions and activities and all sales made to eleemosynary and penal institutions and  
145 industries of the state, and all sales made to any private not-for-profit institution of higher  
146 education not otherwise excluded pursuant to subdivision (20) of this subsection or any  
147 institution of higher education supported by public funds, and all sales made to a state relief  
148 agency in the exercise of relief functions and activities;

149 (22) All ticket sales made by benevolent, scientific and educational associations which  
150 are formed to foster, encourage, and promote progress and improvement in the science of  
151 agriculture and in the raising and breeding of animals, and by nonprofit summer theater  
152 organizations if such organizations are exempt from federal tax pursuant to the provisions of the  
153 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any  
154 fair conducted by a county agricultural and mechanical society organized and operated pursuant  
155 to sections 262.290 to 262.530;

156 (23) All sales made to any private not-for-profit elementary or secondary school, all sales  
157 of feed additives, medications or vaccines administered to livestock or poultry in the production  
158 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
159 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
160 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
161 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as

defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(24) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made

198 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf  
199 of the occupants of residential apartments or condominiums through a single or master meter,  
200 including service for common areas and facilities and vacant units, shall be considered as sales  
201 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales  
202 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility  
203 service rate classification and the provision of service thereunder shall be conclusive as to  
204 whether or not the utility must charge sales tax;

205 (c) Each person making domestic use purchases of services or property and who uses any  
206 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day  
207 of the fourth month following the year of purchase, and without assessment, notice or demand,  
208 file a return and pay sales tax on that portion of nondomestic purchases. Each person making  
209 nondomestic purchases of services or property and who uses any portion of the services or  
210 property so purchased for domestic use, and each person making domestic purchases on behalf  
211 of occupants of residential apartments or condominiums through a single or master meter,  
212 including service for common areas and facilities and vacant units, under a nonresidential utility  
213 service rate classification may, between the first day of the first month and the fifteenth day of  
214 the fourth month following the year of purchase, apply for credit or refund to the director of  
215 revenue and the director shall give credit or make refund for taxes paid on the domestic use  
216 portion of the purchase. The person making such purchases on behalf of occupants of residential  
217 apartments or condominiums shall have standing to apply to the director of revenue for such  
218 credit or refund;

219 (25) All sales of handcraft items made by the seller or the seller's spouse if the seller or  
220 the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such  
221 sales do not constitute a majority of the annual gross income of the seller;

222 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, [4061,] 4071,  
223 4081, [4091,] 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director  
224 of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales  
225 taxes on such excise taxes;

226 (27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne  
227 vessels which are used primarily in or for the transportation of property or cargo, or the  
228 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,  
229 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while  
230 it is afloat upon such river;

231 (28) All sales made to an interstate compact agency created pursuant to sections 70.370  
232 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such  
233 agency as provided pursuant to the compact;

(29) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(30) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(31) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (5) of this subsection;

(33) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(34) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(35) All sales of grain bins for storage of grain for resale;

(36) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(37) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:



(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(38) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(39) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(40) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(41) All materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event;

(43) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as defined in section 306.010;

(44) Any new or used aircraft sold or delivered in this state to a person who is not a resident of this state or a corporation that is not incorporated in this state, and such aircraft is not to be based in this state and shall not remain in this state more than ten business days subsequent to the last to occur of:

(a) The transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state; or

(b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that

305 are completed contemporaneously with the transfer of title to the aircraft to a person who is not  
306 a resident of this state or a corporation that is not incorporated in this state;

307 (45) All internet access or the use of internet access regardless of whether the tax is  
308 imposed on a provider of internet access or a buyer of internet access. For purposes of this  
309 subdivision, the following terms shall mean:

310 (a) "Direct costs", costs incurred by a governmental authority solely because of an  
311 internet service provider's use of the public right-of-way. The term shall not include costs that  
312 the governmental authority would have incurred if the internet service provider did not make  
313 such use of the public right-of-way. Direct costs shall be determined in a manner consistent with  
314 generally accepted accounting principles;

315 (b) "Internet", computer and telecommunications facilities, including equipment and  
316 operating software, that comprises the interconnected worldwide network that employ the  
317 transmission control protocol or internet protocol, or any predecessor or successor protocols to  
318 that protocol, to communicate information of all kinds by wire or radio;

319 (c) "Internet access", a service that enables users to connect to the internet to access  
320 content, information, or other services without regard to whether the service is referred to as  
321 telecommunications, communications, transmission, or similar services, and without regard to  
322 whether a provider of the service is subject to regulation by the Federal Communications  
323 Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this  
324 subdivision, internet access also includes: the purchase, use, or sale of communications services,  
325 including telecommunications services as defined in section 144.010, to the extent the  
326 communications services are purchased, used, or sold to provide the service described in this  
327 subdivision or to otherwise enable users to access content, information, or other services offered  
328 over the internet; services that are incidental to the provision of a service described in this  
329 subdivision, when furnished to users as part of such service, including a home page, electronic  
330 mail, and instant messaging, including voice-capable and video-capable electronic mail and  
331 instant messaging, video clips, and personal electronic storage capacity; a home page electronic  
332 mail and instant messaging, including voice-capable and video-capable electronic mail and  
333 instant messaging, video clips, and personal electronic storage capacity that are provided  
334 independently or that are not packed with internet access. As used in this subdivision, internet  
335 access does not include voice, audio, and video programming or other products and services,  
336 except services described in this paragraph or this subdivision, that use internet protocol or any  
337 successor protocol and for which there is a charge, regardless of whether the charge is separately  
338 stated or aggregated with the charge for services described in this paragraph or this subdivision;  
339 (d) "Tax", any charge imposed by the state or a political subdivision of the state for the  
340 purpose of generating revenues for governmental purposes and that is not a fee imposed for a

specific privilege, service, or benefit conferred, except as described as otherwise under this subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental entity. The term tax shall not include any franchise fee or similar fee imposed or authorized under ~~section~~ **sections 67.1830 to 67.1846** or **section 67.2689**; Section 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other fee related to obligations of telecommunications carriers under the Communications Act of 1934, 47 U.S.C. Section 151, et seq., except to the extent that:

a. The fee is not imposed for the purpose of recovering direct costs incurred by the franchising or other governmental authority from providing the specific privilege, service, or benefit conferred to the payer of the fee; or

b. The fee is imposed for the use of a public right-of-way based on a percentage of the service revenue, and the fee exceeds the incremental direct costs incurred by the governmental authority associated with the provision of that right-of-way to the provider of internet access service.

Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or services that were subject to tax on January 1, 2016;

**(46) Delivery charges of a sale.**

3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a person and this state's executive branch, or any other state agency or department, stating, agreeing, or ruling that such person is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated person shall be null and void unless it is specifically approved by a majority vote of each of the houses of the general assembly. For purposes of this subsection, an "affiliated person" means any person that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the vendor or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the vendor as a corporation that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, as amended.

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