

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

**Offered By**

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 908,  
2 Page 38, Section 137.115, Line 210, 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 activities within this state or maintains a place of business in this state  
15 under section 144.605. The isolated or occasional sale of tangible personal property, service,  
16 substance, or thing, by a person not engaged in such business, does not constitute engaging in  
17 business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross  
18 receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons  
19 which property is sold in the course of the partial or complete liquidation of a household, farm or  
20 nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this  
21 subdivision shall not be construed to make any sale of property which is exempt from sales tax or  
22 use tax on 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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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. The term gross  
11 receipts shall not include usual and customary delivery charges that are stated separately from the  
12 sale price;

13 (5) "Instructional class", includes any class, lesson, or instruction intended or used for  
14 teaching;

15 (6) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich  
16 and emu, aquatic products as described in section 277.024, llamas, alpaca, buffalo, bison, elk  
17 documented as obtained from a legal source and not from the wild, goats, horses, other equine,  
18 honey bees, or rabbits raised in confinement for human consumption;

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

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

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

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

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

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

7 (13) "Sale at retail" means any transfer made by any person engaged in business as defined  
8 herein of the ownership of, or title to, tangible personal property to the purchaser, for use or  
9 consumption and not for resale in any form as tangible personal property, for a valuable  
10 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed  
11 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,  
12 optometrists and veterinarians and used in the practice of their professions shall be deemed to be  
13 purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,  
14 computer output or microfilm or microfiche and computer-assisted photo compositions to a  
15 purchaser to enable the purchaser to obtain for his or her own use the desired information contained  
16 in such computer printouts, computer output on microfilm or microfiche and computer-assisted  
17 photo compositions shall be considered as the sale of a service and not as the sale of tangible  
18 personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and  
19 the tax imposed thereby, the term sale at retail shall be construed to embrace:

20 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of  
21 amusement, entertainment and recreation, games and athletic events, except amounts paid for any  
22 instructional class;

23 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,  
24 commercial or industrial consumers, except as provided in subdivision (12) of subsection 1 of  
25 section 144.011;

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

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

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

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

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

(15) 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; and

(16) "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.

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".

144.011. 1. For purposes of this chapter, and the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed to include any of the following:

(1) The transfer by one corporation of substantially all of its tangible personal property to another corporation pursuant to a merger or consolidation effected under the laws of the state of Missouri or any other jurisdiction;

(2) The transfer of tangible personal property incident to the liquidation or cessation of a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

(3) The transfer of tangible personal property to a corporation solely in exchange for its stock or securities;

(4) The transfer of tangible personal property to a corporation by a shareholder as a contribution to the capital of the transferee corporation;

(5) The transfer of tangible personal property to a partnership solely in exchange for a partnership interest therein;

(6) The transfer of tangible personal property by a partner as a contribution to the capital of the transferee partnership;

(7) The transfer of tangible personal property by a corporation to one or more of its

shareholders as a dividend, return of capital, distribution in the partial or complete liquidation of the corporation or distribution in redemption of the shareholder's interest therein;

(8) The transfer of tangible personal property by a partnership to one or more of its partners as a current distribution, return of capital or distribution in the partial or complete liquidation of the partnership or of the partner's interest therein;

(9) The transfer of reusable containers used in connection with the sale of tangible personal property contained therein for which a deposit is required and refunded on return;

(10) The purchase by persons operating eating or food service establishments, of items of a nonreusable nature which are furnished to the customers of such establishments with or in conjunction with the retail sales of their food or beverage. Such items shall include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and toothpicks;

(11) The purchase by persons operating hotels, motels or other transient accommodation establishments, of items of a nonreusable nature which are furnished to the guests in the guests' rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge;

(12) The purchase by persons operating hotels, motels, or other transient accommodation establishments of electricity, electrical current, water, and gas, whether natural or artificial, which are used to heat, cool, or provide water or power to the guests' accommodations of such establishments, including sleeping rooms, meeting and banquet rooms, and any other customer space rented by guests, and which are included in the charge made for such accommodations. Any person required to remit sales tax on such purchases prior to August 28, 2022, shall be entitled to a refund on such taxes remitted;

(13) The transfer of a manufactured home other than:

(a) A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section 700.010, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state;

(b) A transfer which involves the delivery of a "Reposessed Title" to a resident of this state if the tax imposed by this chapter was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision;

(c) The first transfer which occurs after December 31, 1985, if the tax imposed by this chapter was not paid on any transfer of the same manufactured home which occurred before December 31, 1985; or

~~[(13)]~~ (14) Charges for initiation fees or dues to:

(a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to

1 religious, charitable, scientific, literary, educational or fraternal purposes;

2 (b) Posts or organizations of past or present members of the Armed Forces of the United  
3 States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization  
4 substantially all of the members of which are past or present members of the Armed Forces of the  
5 United States or who are cadets, spouses, widows, or widowers of past or present members of the  
6 Armed Forces of the United States, no part of the net earnings of which inures to the benefit of any  
7 private shareholder or individual; or

8 (c) Nonprofit organizations exempt from taxation under Section 501(c)(7) of the Internal  
9 Revenue Code of 1986, as amended.

10 2. The assumption of liabilities of the transferor by the transferee incident to any of the  
11 transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not  
12 disqualify the transfer from the exclusion described in this section, where such liability assumption  
13 is related to the property transferred and where the assumption does not have as its principal purpose  
14 the avoidance of Missouri sales or use tax.

15  
16 ~~[144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to~~  
17 ~~144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at~~  
18 ~~retail" shall not be construed to include any of the following:~~

19 ~~(1) The transfer by one corporation of substantially all of its tangible~~  
20 ~~personal property to another corporation pursuant to a merger or consolidation~~  
21 ~~effected under the laws of the state of Missouri or any other jurisdiction;~~

22 ~~(2) The transfer of tangible personal property incident to the liquidation or~~  
23 ~~cessation of a taxpayer's trade or business, conducted in proprietorship, partnership~~  
24 ~~or corporate form, except to the extent any transfer is made in the ordinary course~~  
25 ~~of the taxpayer's trade or business;~~

26 ~~(3) The transfer of tangible personal property to a corporation solely in~~  
27 ~~exchange for its stock or securities;~~

28 ~~(4) The transfer of tangible personal property to a corporation by a~~  
29 ~~shareholder as a contribution to the capital of the transferee corporation;~~

30 ~~(5) The transfer of tangible personal property to a partnership solely in~~  
31 ~~exchange for a partnership interest therein;~~

32 ~~(6) The transfer of tangible personal property by a partner as a~~  
33 ~~contribution to the capital of the transferee partnership;~~

34 ~~(7) The transfer of tangible personal property by a corporation to one or~~  
35 ~~more of its shareholders as a dividend, return of capital, distribution in the partial~~  
36 ~~or complete liquidation of the corporation or distribution in redemption of the~~  
37 ~~shareholder's interest therein;~~

38 ~~(8) The transfer of tangible personal property by a partnership to one or~~  
39 ~~more of its partners as a current distribution, return of capital or distribution in the~~  
40 ~~partial or complete liquidation of the partnership or of the partner's interest therein;~~

41 ~~(9) The transfer of reusable containers used in connection with the sale of~~  
42 ~~tangible personal property contained therein for which a deposit is required and~~  
43 ~~refunded on return;~~

44 ~~(10) The purchase by persons operating eating or food service~~  
45 ~~establishments, of items of a nonreusable nature which are furnished to the~~

customers of such establishments with or in conjunction with the retail sales of their food or beverage. Such items shall include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and toothpicks;

(11) ~~The purchase by persons operating hotels, motels or other transient accommodation establishments, of items of a nonreusable nature which are furnished to the guests in the guests' rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge;~~

(12) ~~The transfer of a manufactured home other than:~~

(a) ~~A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section 700.010, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state;~~

(b) ~~A transfer which involves the delivery of a "Reposessed Title" to a resident of this state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision;~~

(c) ~~The first transfer which occurs after December 31, 1985, if the tax imposed by sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which occurred before December 31, 1985; or~~

(13) ~~Charges for initiation fees or dues to:~~

(a) ~~Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to religious, charitable, scientific, literary, educational or fraternal purposes;~~

(b) ~~Posts or organizations of past or present members of the Armed Forces of the United States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization substantially all of the members of which are past or present members of the Armed Forces of the United States or who are cadets, spouses, widows, or widowers of past or present members of the Armed Forces of the United States, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or~~

(c) ~~Nonprofit organizations exempt from taxation under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended.~~

2. ~~The assumption of liabilities of the transferor by the transferee incident to any of the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not disqualify the transfer from the exclusion described in this section, where such liability assumption is related to the property transferred and where the assumption does not have as its principal purpose the avoidance of Missouri sales or use tax.]~~

144.1021. The enactment of sections 143.177, 144.608, 144.637, 144.638, and 144.752 of this act; the repeal and reenactment of sections 143.011, [144.011,] 144.014, 144.020, 144.049, 144.054, 144.140, 144.526, and 144.605 of this act; and the repeal of sections 144.710, 144.1000,

1 144.1003, 144.1006, 144.1009, 144.1012, and 144.1015 of this act shall become effective January 1,  
2 2023."; and  
3  
4 Further amend said bill by amending the title, enacting clause, and intersectional references  
5 accordingly.