

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1707

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLEMAN.

3897H.01P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to certain processing fees excluded from sales tax.

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

Section A. Section 144.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.010, to read as follows:

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

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

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. A person is "engaging in business" in this state for purposes of sections 144.010 to 144.525 if such person engages in business activities within this state or maintains a place of business in this state under section 144.605. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of

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.

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

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

26 (4) "Gross receipts", except as provided in section 144.012, means the total amount of
27 the sale price of the sales at retail including any services other than charges incident to the
28 extension of credit that are a part of such sales made by the businesses herein referred to,
29 capable of being valued in money, whether received in money or otherwise; except that, the
30 term gross receipts shall not include the sale price of property returned by customers when the
31 full sale price thereof is refunded either in cash or by credit. In determining any tax due under
32 sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit
33 shall be specifically exempted. **Charges incident to the extension of credit shall include**
34 **credit card and debit card processing fees.** For the purposes of sections 144.010 to
35 144.525 the total amount of the sale price above mentioned shall be deemed to be the amount
36 received. It shall also include the lease or rental consideration where the right to continuous
37 possession or use of any article of tangible personal property is granted under a lease or
38 contract and such transfer of possession would be taxable if outright sale were made and, in
39 such cases, the same shall be taxable as if outright sale were made and considered as a sale of
40 such article, and the tax shall be computed and paid by the lessee upon the rentals paid. The
41 term gross receipts shall not include usual and customary delivery charges that are stated
42 separately from the sale price;

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

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

49 (7) "Motor vehicle leasing company" shall be a company obtaining a permit from the
50 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
51 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to

52 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
53 144.070, as hereinafter provided;

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

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

63 (10) "Purchaser" means a person who purchases tangible personal property or to
64 whom are rendered services, receipts from which are taxable under sections 144.010 to
65 144.525;

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

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

78 (13) "Sale at retail" means any transfer made by any person engaged in business as
79 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for
80 use or consumption and not for resale in any form as tangible personal property, for a valuable
81 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax
82 imposed thereby: (i) purchases of tangible personal property made by duly licensed
83 physicians, dentists, optometrists and veterinarians and used in the practice of their
84 professions shall be deemed to be purchases for use or consumption and not for resale; and
85 (ii) the selling of computer printouts, computer output or microfilm or microfiche and
86 computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his
87 or her own use the desired information contained in such computer printouts, computer output
88 on microfilm or microfiche and computer-assisted photo compositions shall be considered as

89 the sale of a service and not as the sale of tangible personal property. Where necessary to
90 conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
91 sale at retail shall be construed to embrace:

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

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

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

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

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

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

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

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

116 (16) "Telecommunications service", for the purpose of this chapter, the transmission
117 of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other
118 similar means. As used in this definition, "information" means knowledge or intelligence
119 represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.
120 Telecommunications service does not include the following if such services are separately
121 stated on the customer's bill or on records of the seller maintained in the ordinary course of
122 business:

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

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

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

130 (d) Cable or satellite television or music services.

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

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

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