

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1707

103RD GENERAL ASSEMBLY

3897S.03C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 144.010 and 144.805, RSMo, and to enact in lieu thereof three new sections relating to the exclusion of certain transactions from sales tax.

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

Section A. Sections 144.010 and 144.805, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 144.010, 144.052, and 144.805, to read as
4 follows:

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

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

10 (2) "Business" includes any activity engaged in by any
11 person, or caused to be engaged in by him, with the object
12 of gain, benefit or advantage, either direct or indirect,
13 and the classification of which business is of such
14 character as to be subject to the terms of sections 144.010
15 to 144.525. A person is "engaging in business" in this state
16 for purposes of sections 144.010 to 144.525 if such person

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 engages in business activities within this state or
18 maintains a place of business in this state under section
19 144.605. The isolated or occasional sale of tangible
20 personal property, service, substance, or thing, by a person
21 not engaged in such business, does not constitute engaging
22 in business within the meaning of sections 144.010 to
23 144.525 unless the total amount of the gross receipts from
24 such sales, exclusive of receipts from the sale of tangible
25 personal property by persons which property is sold in the
26 course of the partial or complete liquidation of a
27 household, farm or nonbusiness enterprise, exceeds three
28 thousand dollars in any calendar year. The provisions of
29 this subdivision shall not be construed to make any sale of
30 property which is exempt from sales tax or use tax on June
31 1, 1977, subject to that tax thereafter;

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

39 (4) "Gross receipts", except as provided in section
40 144.012, means the total amount of the sale price of the
41 sales at retail including any services other than charges
42 incident to the extension of credit that are a part of such
43 sales made by the businesses herein referred to, capable of
44 being valued in money, whether received in money or
45 otherwise; except that, the term gross receipts shall not
46 include the sale price of property returned by customers
47 when the full sale price thereof is refunded either in cash
48 or by credit. In determining any tax due under sections

49 144.010 to 144.525 on the gross receipts, charges incident
50 to the extension of credit shall be specifically exempted.
51 **Charges incident to the extension of credit shall include**
52 **credit card and debit card processing fees.** For the
53 purposes of sections 144.010 to 144.525 the total amount of
54 the sale price above mentioned shall be deemed to be the
55 amount received. It shall also include the lease or rental
56 consideration where the right to continuous possession or
57 use of any article of tangible personal property is granted
58 under a lease or contract and such transfer of possession
59 would be taxable if outright sale were made and, in such
60 cases, the same shall be taxable as if outright sale were
61 made and considered as a sale of such article, and the tax
62 shall be computed and paid by the lessee upon the rentals
63 paid. The term gross receipts shall not include usual and
64 customary delivery charges that are stated separately from
65 the sale price;

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

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

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

80 may avail itself of the optional tax provisions of
81 subsection 5 of section 144.070, as hereinafter provided;

82 (8) "Person" includes any individual, firm,
83 copartnership, joint adventure, association, corporation,
84 municipal or private, and whether organized for profit or
85 not, state, county, political subdivision, state department,
86 commission, board, bureau or agency, except the state
87 transportation department, estate, trust, business trust,
88 receiver or trustee appointed by the state or federal court,
89 syndicate, or any other group or combination acting as a
90 unit, and the plural as well as the singular number;

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

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

99 (11) "Research or experimentation activities" are the
100 development of an experimental or pilot model, plant
101 process, formula, invention or similar property, and the
102 improvement of existing property of such type. Research or
103 experimentation activities do not include activities such as
104 ordinary testing or inspection of materials or products for
105 quality control, efficiency surveys, advertising promotions
106 or research in connection with literary, historical or
107 similar projects;

108 (12) "Sale" or "sales" includes installment and credit
109 sales, and the exchange of properties as well as the sale
110 thereof for money, every closed transaction constituting a
111 sale, and means any transfer, exchange or barter,

112 conditional or otherwise, in any manner or by any means
113 whatsoever, of tangible personal property for valuable
114 consideration and the rendering, furnishing or selling for a
115 valuable consideration any of the substances, things and
116 services herein designated and defined as taxable under the
117 terms of sections 144.010 to 144.525;

118 (13) "Sale at retail" means any transfer made by any
119 person engaged in business as defined herein of the
120 ownership of, or title to, tangible personal property to the
121 purchaser, for use or consumption and not for resale in any
122 form as tangible personal property, for a valuable
123 consideration; except that, for the purposes of sections
124 144.010 to 144.525 and the tax imposed thereby: (i)
125 purchases of tangible personal property made by duly
126 licensed physicians, dentists, optometrists and
127 veterinarians and used in the practice of their professions
128 shall be deemed to be purchases for use or consumption and
129 not for resale; and (ii) the selling of computer printouts,
130 computer output or microfilm or microfiche and computer-
131 assisted photo compositions to a purchaser to enable the
132 purchaser to obtain for his or her own use the desired
133 information contained in such computer printouts, computer
134 output on microfilm or microfiche and computer-assisted
135 photo compositions shall be considered as the sale of a
136 service and not as the sale of tangible personal property.
137 Where necessary to conform to the context of sections
138 144.010 to 144.525 and the tax imposed thereby, the term
139 sale at retail shall be construed to embrace:

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

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

148 (c) Sales of local and long distance
149 telecommunications service to telecommunications subscribers
150 and to others through equipment of telecommunications
151 subscribers for the transmission of messages and
152 conversations, and the sale, rental or leasing of all
153 equipment or services pertaining or incidental thereto;

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

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

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

167 (14) "Seller" means a person selling or furnishing
168 tangible personal property or rendering services, on the
169 receipts from which a tax is imposed pursuant to section
170 144.020;

171 (15) The noun "tax" means either the tax payable by
172 the purchaser of a commodity or service subject to tax, or
173 the aggregate amount of taxes due from the vendor of such
174 commodities or services during the period for which he or

175 she is required to report his or her collections, as the
176 context may require; and

177 (16) "Telecommunications service", for the purpose of
178 this chapter, the transmission of information by wire,
179 radio, optical cable, coaxial cable, electronic impulses, or
180 other similar means. As used in this definition,
181 "information" means knowledge or intelligence represented by
182 any form of writing, signs, signals, pictures, sounds, or
183 any other symbols. Telecommunications service does not
184 include the following if such services are separately stated
185 on the customer's bill or on records of the seller
186 maintained in the ordinary course of business:

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

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

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

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

198 2. For purposes of the taxes imposed under sections
199 144.010 to 144.525, and any other provisions of law
200 pertaining to sales or use taxes which incorporate the
201 provisions of sections 144.010 to 144.525 by reference, the
202 term manufactured homes shall have the same meaning given it
203 in section 700.010.

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

144.052. 1. As used in this section, the term
2 "campground" shall mean any parcel or tract of land,
3 including buildings and other structures, where five or more
4 campsites are made available for use as temporary living
5 quarters for recreational, camping, travel, or seasonal
6 use. The term "campground" shall also include recreational
7 vehicle parks.

8 2. Notwithstanding any other law to the contrary, in
9 addition to all other exemptions granted under this chapter,
10 there is hereby specifically exempted from the provisions of
11 sections 144.010 to 144.525 and sections 144.600 to 144.761
12 and the local sales tax law as defined in section 32.085 and
13 from the computation of the tax levied, assessed, or payable
14 under sections 144.010 to 144.525 and sections 144.600 to
15 144.761 and the local sales tax law as defined in section
16 32.085, fees or charges for rental of lots, buildings, other
17 structures, and amenities in a campground. The provisions
18 of this section shall be in addition to any other sales or
19 use tax exemptions provided by law.

144.805. 1. In addition to the exemptions granted
2 pursuant to the provisions of section 144.030, there shall
3 also be specifically exempted from the provisions of
4 sections 144.010 to 144.525, sections 144.600 to 144.746,
5 and section 238.235, and the provisions of any local sales
6 tax law, as defined in section 32.085, and from the
7 computation of the tax levied, assessed or payable pursuant
8 to sections 144.010 to 144.525, sections 144.600 to 144.746,
9 and section 238.235, and the provisions of any local sales
10 tax law, as defined in section 32.085, all sales of aviation
11 jet fuel in a given calendar year to common carriers engaged
12 in the interstate air transportation of passengers and
13 cargo, and the storage, use and consumption of such aviation

14 jet fuel by such common carriers, if such common carrier has
15 first paid to the state of Missouri, in accordance with the
16 provisions of this chapter, state sales and use taxes
17 pursuant to the foregoing provisions and applicable to the
18 purchase, storage, use or consumption of such aviation jet
19 fuel in a maximum and aggregate amount of one million five
20 hundred thousand dollars of state sales and use taxes in
21 such calendar year.

22 2. To qualify for the exemption prescribed in
23 subsection 1 of this section, the common carrier shall
24 furnish to the seller a certificate in writing to the effect
25 that an exemption pursuant to this section is applicable to
26 the aviation jet fuel so purchased, stored, used and
27 consumed. The director of revenue shall permit any such
28 common carrier to enter into a direct-pay agreement with the
29 department of revenue, pursuant to which such common carrier
30 may pay directly to the department of revenue any applicable
31 sales and use taxes on such aviation jet fuel up to the
32 maximum aggregate amount of one million five hundred
33 thousand dollars in each calendar year. The director of
34 revenue shall adopt appropriate rules and regulations to
35 implement the provisions of this section, and to permit
36 appropriate claims for refunds of any excess sales and use
37 taxes collected in calendar year 1993 or any subsequent year
38 with respect to any such common carrier and aviation jet
39 fuel.

40 3. The provisions of this section shall apply to all
41 purchases and deliveries of aviation jet fuel from and after
42 May 10, 1993.

43 4. All sales and use tax revenues upon aviation jet
44 fuel received pursuant to this chapter, less the amounts
45 specifically designated pursuant to the constitution or

46 pursuant to section 144.701 for other purposes, shall be
47 deposited to the credit of the aviation trust fund
48 established pursuant to section 155.090; provided however,
49 the amount of such state sales and use tax revenues
50 deposited to the credit of such aviation trust fund shall
51 not exceed ten million dollars in each calendar year.

52 5. The provisions of this section and section 144.807
53 shall expire on December 31, [2033] 2043.

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