

FIRST REGULAR SESSION

# HOUSE BILL NO. 346

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES GUERNSEY (Sponsor), LOEHNER, WELLS, CAUTHORN, SCHAD, HOUGH, RUZICKA, HOUGHTON, ROWLAND, FRAKER, CRAWFORD, KORMAN, SHIVELY, QUINN AND HODGES (Co-sponsors).

0908L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 144.010, 144.020, 144.030, and 144.070, RSMo, and to enact in lieu thereof four new sections relating to sales tax exemptions for captive wildlife.

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

Section A. Sections 144.010, 144.020, 144.030, and 144.070, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 144.010, 144.020, 144.030,  
3 and 144.070, to read as follows:

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

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

7 (2) "Business" includes any activity engaged in by any person, or caused to be engaged  
8 in by him, with the object of gain, benefit or advantage, either direct or indirect, and the  
9 classification of which business is of such character as to be subject to the terms of sections  
10 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service,  
11 substance, or thing, by a person not engaged in such business, does not constitute engaging in  
12 business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross  
13 receipts from such sales, exclusive of receipts from the sale of tangible personal property by  
14 persons which property is sold in the course of the partial or complete liquidation of a household,

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.

15 farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The  
16 provisions of this subdivision shall not be construed to make any sale of property which is  
17 exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

18 (3) **"Captive wildlife", includes but is not limited to exotic partridges, gray**  
19 **partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive**  
20 **white-tailed deer, captive elk, and captive furbearers held under permit issued by the**  
21 **Missouri department of conservation for hunting purposes;**

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

36 [(4)] (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited  
37 to, ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk  
38 documented as obtained from a legal source and not from the wild, goats, horses, other equine,  
39 or rabbits raised in confinement for human consumption;

40 [(5)] (6) "Motor vehicle leasing company" shall be a company obtaining a permit from  
41 the director of revenue to operate as a motor vehicle leasing company. Not all persons renting  
42 or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to  
43 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section  
44 144.070, as hereinafter provided;

45 [(6)] (7) "Person" includes any individual, firm, copartnership, joint adventure,  
46 association, corporation, municipal or private, and whether organized for profit or not, state,  
47 county, political subdivision, state department, commission, board, bureau or agency, except the  
48 state transportation department, estate, trust, business trust, receiver or trustee appointed by the  
49 state or federal court, syndicate, or any other group or combination acting as a unit, and the plural  
50 as well as the singular number;

51            [(7)] (8) "Purchaser" means a person who purchases tangible personal property or to  
52 whom are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

53            [(8)] (9) "Research or experimentation activities" are the development of an experimental  
54 or pilot model, plant process, formula, invention or similar property, and the improvement of  
55 existing property of such type. Research or experimentation activities do not include activities  
56 such as ordinary testing or inspection of materials or products for quality control, efficiency  
57 surveys, advertising promotions or research in connection with literary, historical or similar  
58 projects;

59            [(9)] (10) "Sale" or "sales" includes installment and credit sales, and the exchange of  
60 properties as well as the sale thereof for money, every closed transaction constituting a sale, and  
61 means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means  
62 whatsoever, of tangible personal property for valuable consideration and the rendering,  
63 furnishing or selling for a valuable consideration any of the substances, things and services  
64 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

65            [(10)] (11) "Sale at retail" means any transfer made by any person engaged in business  
66 as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for  
67 use or consumption and not for resale in any form as tangible personal property, for a valuable  
68 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed  
69 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,  
70 optometrists and veterinarians and used in the practice of their professions shall be deemed to  
71 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,  
72 computer output or microfilm or microfiche and computer-assisted photo compositions to a  
73 purchaser to enable the purchaser to obtain for his or her own use the desired information  
74 contained in such computer printouts, computer output on microfilm or microfiche and  
75 computer-assisted photo compositions shall be considered as the sale of a service and not as the  
76 sale of tangible personal property. Where necessary to conform to the context of sections  
77 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to  
78 embrace:

79            (a) Sales of admission tickets, cash admissions, charges and fees to or in places of  
80 amusement, entertainment and recreation, games and athletic events;

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

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

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

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

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

95 [(11)] (12) "Seller" means a person selling or furnishing tangible personal property or  
96 rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

97 [(12)] (13) The noun "tax" means either the tax payable by the purchaser of a commodity  
98 or service subject to tax, or the aggregate amount of taxes due from the vendor of such  
99 commodities or services during the period for which he or she is required to report his or her  
100 collections, as the context may require;

101 [(13)] (14) "Telecommunications service", for the purpose of this chapter, the  
102 transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or  
103 other similar means. As used in this definition, "information" means knowledge or intelligence  
104 represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.  
105 Telecommunications service does not include the following if such services are separately stated  
106 on the customer's bill or on records of the seller maintained in the ordinary course of business:

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

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

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

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

115 [(14)] (15) "Product which is intended to be sold ultimately for final use or consumption"  
116 means tangible personal property, or any service that is subject to state or local sales or use taxes,  
117 or any tax that is substantially equivalent thereto, in this state or any other state.

118 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other  
119 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections  
120 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning  
121 given it in section 700.010.

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

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of  
2 engaging in the business of selling tangible personal property or rendering taxable service at  
3 retail in this state. The rate of tax shall be as follows:

4 (1) Upon every retail sale in this state of tangible personal property, including but not  
5 limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard  
6 motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale  
7 involves the exchange of property, a tax equivalent to four percent of the consideration paid or  
8 charged, including the fair market value of the property exchanged at the time and place of the  
9 exchange, except as otherwise provided in section 144.025;

10 (2) A tax equivalent to four percent of the amount paid for admission and seating  
11 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,  
12 games and athletic events;

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

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

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

25 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,  
26 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,  
27 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are  
28 regularly served to the public;

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

34 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of  
35 tangible personal property, provided that if the lessor or renter of any tangible personal property  
36 had previously purchased the property under the conditions of "sale at retail" [as defined in

37 subdivision (8) of section 144.010] or leased or rented the property and the tax was paid at the  
38 time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or  
39 collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property.  
40 The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles,  
41 boats, and outboard motors shall be taxed and the tax paid as provided in this section and section  
42 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale,  
43 charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such  
44 rental or lease be subject to any tax imposed to, for, or in such places of amusement,  
45 entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the  
46 provisions of the sales tax laws as provided under such laws for motor vehicles and trailers.  
47 Tangible personal property which is exempt from the sales or use tax under section 144.030 upon  
48 a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

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

144.030. 1. There is hereby specifically exempted from the provisions of sections  
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to  
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and  
4 any other state of the United States, or between this state and any foreign country, and any retail  
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws  
6 of the United States of America, and such retail sales of tangible personal property which the  
7 general assembly of the state of Missouri is prohibited from taxing or further taxing by the  
8 constitution of this state.

9 2. There are also specifically exempted from the provisions of the local sales tax law as  
10 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to  
11 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local  
12 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and  
13 144.600 to 144.745:

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of  
15 such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be  
16 consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing  
17 water to be sold ultimately at retail; or feed for livestock [or] , poultry, **or captive wildlife**; or  
18 grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail;  
19 or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which  
20 when harvested will be sold at retail or will be fed to livestock [or] , poultry, **or captive wildlife**  
21 to be sold ultimately in processed form at retail; economic poisons registered pursuant to the

22 provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to  
23 be used in connection with the growth or production of crops, fruit trees or orchards applied  
24 before, during, or after planting, the crop of which when harvested will be sold at retail or will  
25 be converted into foodstuffs which are to be sold ultimately in processed form at retail;

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

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

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely  
39 required for the installation or construction of such replacement machinery, equipment, and  
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
42 the materials and supplies required solely for the operation, installation or construction of such  
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
45 recovery processing plant" means a facility that has as its primary purpose the recovery of  
46 materials into a useable product or a different form which is used in producing a new product and  
47 shall include a facility or equipment which are used exclusively for the collection of recovered  
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have  
50 the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials  
51 within a manufacturing process or the use of a product previously recovered. The material  
52 recovery processing plant shall qualify under the provisions of this section regardless of  
53 ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required  
55 for the installation or construction of such machinery and equipment, purchased and used to  
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if

57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,  
60 processing, modification or assembling of products sold to the United States government or to  
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes, **or captive wildlife**;

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

66 (9) The rentals of films, records or any type of sound or picture transcriptions for public  
67 commercial display;

68 (10) Pumping machinery and equipment used to propel products delivered by pipelines  
69 engaged as common carriers;

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

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,  
75 mining or producing of a product, or electrical energy used in the actual secondary processing  
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,  
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
80 contain at least twenty-five percent recovered materials as defined in section 260.200. There  
81 shall be a rebuttable presumption that the raw materials used in the primary manufacture of  
82 automobiles contain at least twenty-five percent recovered materials. For purposes of this  
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon  
84 materials to transform and reduce them to a different state or thing, including treatment necessary  
85 to maintain or preserve such processing by the producer at the production facility;

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

88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely  
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies  
90 solely required for the installation, construction or reconstruction of such machinery, equipment,  
91 appliances and devices;

92 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
93 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
94 solely required for the installation, construction or reconstruction of such machinery, equipment,  
95 appliances and devices;

96 (16) Tangible personal property purchased by a rural water district;

97 (17) All amounts paid or charged for admission or participation or other fees paid by or  
98 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
99 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
100 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
101 municipality or other political subdivision and do not inure to any private person, firm, or  
102 corporation;

103 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,  
104 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of  
105 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically  
106 including hearing aids and hearing aid supplies and all sales of drugs which may be legally  
107 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to  
108 administer those items, including samples and materials used to manufacture samples which may  
109 be dispensed by a practitioner authorized to dispense such samples and all sales of medical  
110 oxygen, home respiratory equipment and accessories, hospital beds and accessories and  
111 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,  
112 electronic Braille equipment and, if purchased by or on behalf of a person with one or more  
113 physical or mental disabilities to enable them to function more independently, all sales of  
114 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and  
115 augmentative communication devices, and items used solely to modify motor vehicles to permit  
116 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or  
117 nonprescription drugs to individuals with disabilities;

118 (19) All sales made by or to religious and charitable organizations and institutions in  
119 their religious, charitable or educational functions and activities and all sales made by or to all  
120 elementary and secondary schools operated at public expense in their educational functions and  
121 activities;

122 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce  
123 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,  
124 including fraternal organizations which have been declared tax-exempt organizations pursuant  
125 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or  
126 charitable functions and activities and all sales made to eleemosynary and penal institutions and  
127 industries of the state, and all sales made to any private not-for-profit institution of higher

128 education not otherwise excluded pursuant to subdivision (19) of this subsection or any  
129 institution of higher education supported by public funds, and all sales made to a state relief  
130 agency in the exercise of relief functions and activities;

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

138 (22) All sales made to any private not-for-profit elementary or secondary school, all sales  
139 of feed additives, medications or vaccines administered to livestock or poultry in the production  
140 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
141 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
142 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
143 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as  
144 defined in section 142.028, natural gas, propane, and electricity used by an eligible new  
145 generation cooperative or an eligible new generation processing entity as defined in section  
146 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and  
147 trailers. As used in this subdivision, the term "feed additives" means tangible personal property  
148 which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock  
149 or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop  
150 oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance  
151 the effect of a pesticide and the foam used to mark the application of pesticides and herbicides  
152 for the production of crops, livestock or poultry. As used in this subdivision, the term "farm  
153 machinery and equipment" means new or used farm tractors and such other new or used farm  
154 machinery and equipment and repair or replacement parts thereon, and supplies and lubricants  
155 used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish,  
156 poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field  
157 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

158 (a) Used exclusively for agricultural purposes;

159 (b) Used on land owned or leased for the purpose of producing farm products; and

160 (c) Used directly in producing farm products to be sold ultimately in processed form or  
161 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
162 ultimately in processed form at retail;

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

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

175 (b) Regulated utility sellers shall determine whether individual purchases are exempt or  
176 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file  
177 with and approved by the Missouri public service commission. Sales and purchases made  
178 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf  
179 of the occupants of residential apartments or condominiums through a single or master meter,  
180 including service for common areas and facilities and vacant units, shall be considered as sales  
181 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales  
182 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility  
183 service rate classification and the provision of service thereunder shall be conclusive as to  
184 whether or not the utility must charge sales tax;

185 (c) Each person making domestic use purchases of services or property and who uses any  
186 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day  
187 of the fourth month following the year of purchase, and without assessment, notice or demand,  
188 file a return and pay sales tax on that portion of nondomestic purchases. Each person making  
189 nondomestic purchases of services or property and who uses any portion of the services or  
190 property so purchased for domestic use, and each person making domestic purchases on behalf  
191 of occupants of residential apartments or condominiums through a single or master meter,  
192 including service for common areas and facilities and vacant units, under a nonresidential utility  
193 service rate classification may, between the first day of the first month and the fifteenth day of  
194 the fourth month following the year of purchase, apply for credit or refund to the director of  
195 revenue and the director shall give credit or make refund for taxes paid on the domestic use  
196 portion of the purchase. The person making such purchases on behalf of occupants of residential  
197 apartments or condominiums shall have standing to apply to the director of revenue for such  
198 credit or refund;

199 (24) All sales of handicraft items made by the seller or the seller's spouse if the seller or  
200 the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such  
201 sales do not constitute a majority of the annual gross income of the seller;

202 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,  
203 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of  
204 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes  
205 on such excise taxes;

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

211 (27) All sales made to an interstate compact agency created pursuant to sections 70.370  
212 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such  
213 agency as provided pursuant to the compact;

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

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

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

223 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other  
224 utilities which are ultimately consumed in connection with the manufacturing of cellular glass  
225 products or in any material recovery processing plant as defined in subdivision (4) of this  
226 subsection;

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

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

232 (34) All sales of grain bins for storage of grain for resale;

233 (35) All sales of feed which are developed for and used in the feeding of pets owned by  
234 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
235 273.325, and licensed pursuant to sections 273.325 to 273.357;

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

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

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

255 (37) All sales or other transfers of tangible personal property to a lessor who leases the  
256 property under a lease of one year or longer executed or in effect at the time of the sale or other  
257 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections  
258 238.010 to 238.100;

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

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

268 (40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement  
269 parts, and equipment purchased for use directly upon, and for the modification, replacement,  
270 repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

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

144.070. 1. At the time the owner of any new or used motor vehicle, trailer, boat, or  
2 outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales  
3 tax law makes application to the director of revenue for an official certificate of title and the  
4 registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law,  
5 the owner shall present to the director of revenue evidence satisfactory to the director of revenue  
6 showing the purchase price exclusive of any charge incident to the extension of credit paid by  
7 or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard  
8 motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its  
9 acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax  
10 provided by the Missouri sales tax law in addition to the registration fees now or hereafter  
11 required according to law, and the director of revenue shall not issue a certificate of title for any  
12 new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the  
13 Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to  
14 144.510 has been paid as provided in this section or is registered under the provisions of  
15 subsection 5 of this section.

16 2. As used in subsection 1 of this section, the term "purchase price" shall mean the total  
17 amount of the contract price agreed upon between the seller and the applicant in the acquisition  
18 of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment  
19 therefor.

20 3. In the event that the purchase price is unknown or undisclosed, or that the evidence  
21 thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by  
22 the director.

23 4. The director of the department of revenue shall endorse upon the official certificate  
24 of title issued by the director upon such application an entry showing that such sales tax has been  
25 paid or that the motor vehicle, trailer, boat, or outboard motor represented by such certificate is  
26 exempt from sales tax and state the ground for such exemption.

27 5. Any person, company, or corporation engaged in the business of renting or leasing  
28 motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental  
29 or lease purposes, and not for resale, may apply to the director of revenue for authority to operate

30 as a leasing company. Any company approved by the director of revenue may pay the tax due  
31 on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time  
32 of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010,  
33 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company  
34 which does not exercise the option of paying in accordance with section 144.020, on the amount  
35 charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard  
36 motor is domiciled in this state. Any motor vehicle, trailer, boat, or outboard motor which is  
37 leased as the result of a contract executed in this state shall be presumed to be domiciled in this  
38 state.

39 6. Any corporation may have one or more of its divisions separately apply to the director  
40 of revenue for authorization to operate as a leasing company, provided that the corporation:

41 (1) Has filed a written consent with the director authorizing any of its divisions to apply  
42 for such authority;

43 (2) Is authorized to do business in Missouri;

44 (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from  
45 one of its divisions to another of its divisions as a sale at retail [within the meaning of  
46 subdivision (9) of subsection 1 of section 144.010];

47 (4) Has registered under the fictitious name provisions of sections 417.200 to 417.230  
48 each of its divisions doing business in Missouri as a leasing company; and

49 (5) Operates each of its divisions on a basis separate from each of its other divisions.  
50 However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a  
51 corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to  
52 sections 301.550 to 301.573 the provisions in subdivision (3) of this subsection shall not apply.

53 7. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge  
54 and collect sales tax as provided in this section, the owner shall make application to the director  
55 of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing  
56 company. The director of revenue shall promulgate rules and regulations determining the  
57 qualifications of such a company, and the method of collection and reporting of sales tax charged  
58 and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or  
59 outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing  
60 companies under the provisions of subsection 5 of this section, and no motor vehicle renting or  
61 leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come  
62 under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats,  
63 and outboard motors held for renting and leasing are included.

64 8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560  
65 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue

66 for authority to collect and remit the sales tax required under this section on all motor vehicles  
67 sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit  
68 the tax is subject to all provisions under sections 144.010 to 144.525.

69

70 Any motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this  
71 subsection shall be entitled to deduct and retain an amount equal to two percent of the motor  
72 vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this  
73 subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not  
74 constitute state revenue. In no event shall revenues from the general revenue fund or any other  
75 state fund be utilized to compensate motor vehicle dealers for their role in collecting and  
76 remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is  
77 held to violate article IV, section 30(b) of the Missouri Constitution, no motor vehicle dealer  
78 shall be authorized to collect and remit sales taxes on motor vehicles under this section. No  
79 motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a court  
80 of competent jurisdiction declares that the retention of two percent of the motor vehicle sales tax  
81 is unconstitutional and orders the return of such revenues.

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