

SECOND REGULAR SESSION

HOUSE BILL NO. 2110

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ZERR.

6232H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 144.010 and 144.020, RSMo, and to enact in lieu thereof two new sections relating to sales tax.

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

Section A. Sections 144.010 and 144.020, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 144.010 and 144.020, to read as follows: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 in 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 receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 calendar year. The provisions of this subdivision shall not be construed to make any sale of
19 property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

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

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

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

43 (6) "Motor vehicle leasing company" shall be a company obtaining a permit from the
44 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
45 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
46 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
47 144.070, as hereinafter provided;

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

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

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

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

68 (11) "Sale at retail" means any transfer made by any person engaged in business as
69 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use
70 or consumption and not for resale in any form as tangible personal property, for a valuable
71 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed
72 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,
73 optometrists and veterinarians and used in the practice of their professions shall be deemed to
74 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,
75 computer output or microfilm or microfiche and computer-assisted photo compositions to a
76 purchaser to enable the purchaser to obtain for his or her own use the desired information
77 contained in such computer printouts, computer output on microfilm or microfiche and
78 computer-assisted photo compositions shall be considered as the sale of a service and not as the
79 sale of tangible personal property. Where necessary to conform to the context of sections
80 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to
81 embrace:

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

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

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

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

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

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

98 **(g) Individual or group habilitation services provided to persons with**
99 **developmental disabilities designed to assist such persons with achieving or maintaining**
100 **maximum self-sufficiency, regardless of whether provided in one's place of residence,**
101 **excluding services provided in an intermediate care facility for the intellectually disabled**
102 **and services provided by a person or entity that has a license from the Missouri**
103 **department of health and senior services under chapter 197 or 198;**

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

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

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

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

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

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

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

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

126 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
127 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
128 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning
129 given it in section 700.010.

130 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 for the privilege of titling new and used
2 motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the
3 highways or waters of this state which are required to be titled under the laws of the state of
4 Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the
5 privilege of engaging in the business of selling tangible personal property or rendering taxable
6 service at retail in this state. The rate of tax shall be as follows:

7 (1) Upon every retail sale in this state of tangible personal property, excluding motor
8 vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to
9 be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this
10 subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such
11 sale involves the exchange of property, a tax equivalent to four percent of the consideration paid
12 or charged, including the fair market value of the property exchanged at the time and place of
13 the exchange, except as otherwise provided in section 144.025;

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

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

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

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

29 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
30 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,

31 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
32 regularly served to the public;

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

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

53 (9) A tax equivalent to four percent of the purchase price, as defined in section 144.070,
54 of new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for
55 use on the highways or waters of this state which are required to be registered under the laws of
56 the state of Missouri. This tax is imposed on the person titling such property, and shall be paid
57 according to the procedures in section 144.440;

58 **(10) Beginning on July 1, 2015, a tax equivalent to four percent of the amount paid**
59 **for individual or group habilitation services provided to persons with developmental**
60 **disabilities designed to assist such persons with achieving or maintaining maximum self-**
61 **sufficiency, regardless of whether provided in one's place of residence, excluding services**
62 **provided in an intermediate care facility for the intellectually disabled and services**
63 **provided by a person or entity that has a license from the Missouri department of health**
64 **and senior services under chapter 197 or 198. The tax imposed by this subdivision shall**
65 **expire on June 30, 2017. First use of such services shall be deemed to occur at the seller's**
66 **designated business address.**

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

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