

SECOND REGULAR SESSION

# HOUSE BILL NO. 1172

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HICKEY.

Pre-filed December 10, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3061L.011

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### AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales tax.

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*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Section A. Section 144.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.010, to read as follows: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] **such person**, 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. 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 calendar year. The provisions of this subdivision shall not be construed to make any sale of property

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

17 which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

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

33 (4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,  
34 ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as  
35 obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised  
36 in confinement for human consumption;

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

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

48 (7) "Purchaser" means a person who purchases tangible personal property or to whom  
49 are rendered services, receipts from which are taxable [under] **pursuant to** sections 144.010 to  
50 144.525;

51 (8) "Research or experimentation activities", are the development of an experimental or  
52 pilot model, plant process, formula, invention, or similar property, and the improvement of

53 existing property of such type. Research or experimentation activities do not include activities  
54 such as ordinary testing or inspection of materials or products for quality control, efficiency  
55 surveys, advertising promotions, or research in connection with literary, historical, or similar  
56 projects;

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

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

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

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

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

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

87 (e) Sales or charges for all rooms, meals, and drinks furnished at any hotel, motel, tavern,  
88 inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in

89 which rooms, meals, or drinks are regularly served to the public;

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

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

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

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

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

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

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

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

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

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

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