

SECOND REGULAR SESSION

HOUSE BILL NO. 1174

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HICKEY.

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

TED WEDEL, Chief Clerk

3063L.011

AN ACT

To repeal sections 144.010, 144.020, and 144.440, RSMo, and to enact in lieu thereof three new sections relating to sales taxation, with an effective date.

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

Section A. Sections 144.010, 144.020, and 144.440, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 144.010, 144.020, and 144.440, to read
3 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] **such person**, with the object of gain, benefit, or advantage, either direct or indirect,
9 and the classification of which business is of such character as to be subject to the terms of
10 sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, **a**
11 **motor vehicle**, service, substance, or thing, by a person not engaged in such business, does not
12 constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the
13 total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible
14 personal property **or of a motor vehicle** by persons which property is sold in the course of the
15 partial or complete liquidation of a household, farm, or nonbusiness enterprise, exceeds three

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

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

19 (3) "Gross receipts", except as provided in section 144.012, means the total amount of
20 the sale price of the sales at retail including any services other than 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 **or a motor vehicle** is granted under a lease or contract and
30 such transfer of possession would be taxable if outright sale were made and, in such cases, the
31 same shall be taxable as if outright sale were made and considered as a sale of such article, and
32 the tax shall 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 a motor**
49 **vehicle** or to whom are rendered services, receipts from which are taxable [under] **pursuant to**
50 sections 144.010 to 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 of] **pursuant to** 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 **or a motor vehicle** to
66 the purchaser, for use or consumption and not for resale in any form as tangible personal property
67 **or as a motor vehicle**, for a valuable consideration; except that, for the purposes of sections
68 144.010 to 144.525 and the tax imposed thereby: (i) purchases of tangible personal property **or**
69 **a motor vehicle** made by duly licensed physicians, dentists, optometrists, and veterinarians and
70 used in the practice of their professions shall be deemed to be purchases for use or consumption
71 and not for resale; and (ii) the selling of computer printouts, computer output [or] **on** microfilm
72 or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser
73 to obtain for his or her own use the desired information contained in such computer printouts,
74 computer output on microfilm or microfiche, and computer-assisted photo compositions shall
75 be considered as the sale of a service and not as the sale of tangible personal property. Where
76 necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby,
77 the term "sale at retail" shall be construed to 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 a motor**
95 **vehicle** or rendering services, on the receipts from which a tax is imposed pursuant to section
96 144.020;

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

101 (13) "Telecommunications service", for the purpose of this chapter, the transmission of
102 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar
103 means. As used in this definition, "information" means knowledge or intelligence represented
104 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) "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] **pursuant to** sections 144.010 to 144.525,
119 and any other provisions of law pertaining to sales or use taxes which incorporate the provisions
120 of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same
121 meaning given it in section 700.010, RSMo.

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 a motor vehicle** or rendering
3 taxable service at retail in this state. The rate of tax shall be as follows:

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

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

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

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

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

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

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

35 (8) **Except as provided in subdivision (9) of this subsection**, a tax equivalent to four
36 percent of the amount paid or charged for rental or lease of tangible personal property, provided
37 that if the lessor or renter of any tangible personal property had previously purchased the

38 property under the conditions of "sale at retail" as defined in subdivision [(8)] **(10)** of section
39 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease, or
40 rental, the lessor, sublessor, renter, or subrenter shall not apply or collect the tax on the
41 subsequent lease, sublease, rental, or subrental receipts from that property. The purchase, rental,
42 or lease of [motor vehicles,] trailers, motorcycles, mopeds, motortricycles, boats, and outboard
43 motors shall be taxed and the tax paid as provided in this section and section 144.070. In no
44 event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee
45 to, for or in places of amusement, entertainment, or recreation nor shall any such rental or lease
46 be subject to any tax imposed to, for, or in such places of amusement, entertainment, or
47 recreation. Rental and leased boats or outboard motors shall be taxed [under] **pursuant to** the
48 provisions of the sales tax laws as provided [under] **by** such laws for motor vehicles and trailers.
49 Tangible personal property which is exempt from the sales or use tax [under] **pursuant to**
50 section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease
51 or rental thereof[.];

52 **(9) Upon every retail sale in this state of a motor vehicle, a tax equivalent to two**
53 **percent of the purchase price paid or charged, or a tax equivalent to two percent of the**
54 **amount paid or charged for rental or lease of a motor vehicle; provided, that if the lessor**
55 **or renter of any motor vehicle had previously purchased the vehicle under the conditions**
56 **of "sale at retail" as defined in subdivision (10) of section 144.010 or leased or rented the**
57 **vehicle and the tax was paid at the time of purchase, lease, or rental, the lessor, sublessor,**
58 **renter, or subrenter shall not apply or collect the tax on the subsequent lease, sublease,**
59 **rental, or subrental receipts from that vehicle. The purchase or use of motor vehicles shall**
60 **be taxed and the tax paid as provided in sections 144.070 and 144.440. No tax shall be**
61 **collected on the rental or lease of motor vehicles except as provided in sections 144.070 and**
62 **144.440. Motor vehicles which are exempt from the sales or use tax pursuant to section**
63 **144.030 upon a sale thereof are likewise exempt from the sales or use tax upon the lease or**
64 **rental thereof.**

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

144.440. 1. In addition to all other taxes now or hereafter levied and imposed upon
2 every person for the privilege of using the highways or waterways of this state, there is hereby
3 levied and imposed a tax equivalent to four percent of the purchase price, as defined in section
4 144.070, which is paid or charged on new and used [motor vehicles,] trailers, boats, and outboard
5 motors, **and a tax equivalent to two percent of the purchase price, as defined in section**
6 **144.070, which is paid or charged on new and used motor vehicles, when such trailers,**

7 **boats, outboard motors, and motor vehicles are** purchased or acquired for use on the highways
8 or waters of this state [which] **and** are required to be registered [under] **pursuant to** the laws of
9 the state of Missouri.

10 2. At the time the owner of any such motor vehicle, trailer, boat, or outboard motor
11 makes application to the director of revenue for an official certificate of title and the registration
12 of the same as otherwise provided by law, [he] **the owner** shall present to the director of revenue
13 evidence satisfactory to the director showing the purchase price paid by or charged to the
14 applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that the
15 motor vehicle, trailer, boat, or outboard motor is not subject to the tax herein provided and, if the
16 motor vehicle, trailer, boat, or outboard motor is subject to the tax herein provided, the applicant
17 shall pay or cause to be paid to the director of revenue the tax provided herein.

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

21 4. No certificate of title shall be issued for such motor vehicle, trailer, boat, or outboard
22 motor unless the tax for the privilege of using the highways or waters of this state has been paid
23 or the vehicle, trailer, boat, or outboard motor is registered [under] **pursuant to** the provisions
24 of subsection 5 of this section.

25 5. The owner of any motor vehicle, trailer, boat, or outboard motor which is to be used
26 exclusively for rental or lease purposes may pay the tax due thereon required in section 144.020
27 at the time of registration or in lieu thereof may pay a use tax as provided in sections 144.010,
28 144.020, 144.070, and 144.440. A use tax shall be charged and paid on the amount charged for
29 each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is
30 domiciled in the state. If the owner elects to pay upon each rental or lease, [he] **the owner** shall
31 make an affidavit to that effect in such form as the director of revenue shall require and shall
32 remit the tax due at such times as the director of revenue shall require.

33 6. In the event that any leasing company which rents or leases motor vehicles, trailers,
34 boats, or outboard motors elects to collect a use tax, all of its lease receipt would be subject to
35 the use tax, [regardless of] whether or not the leasing company previously paid a sales tax when
36 the vehicle, trailer, boat, or outboard motor was originally purchased.

37 7. The provisions of this section, and the tax imposed by this section, shall not apply to
38 manufactured homes.

Section B. Section A of this act shall become effective on January 1, 2003.