

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 196
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means May 5, 2005, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 196 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0973L.08C

AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to material recovery operations.

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

Section A. Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

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

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

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.

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 142.584, RSMo]; or upon the sale at retail of fuel
16 to be 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 grain to be converted into
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide
22 registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with
23 the growth or production of crops, fruit trees or orchards applied before, during, or after planting,
24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which
25 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 [which converts recovered materials into a new
46 product, or a different form which is used in producing a new product] **that has as its primary**
47 **purpose the recovery of materials into a useable product or a different form which is used**
48 **in producing a new product** and shall include a facility or equipment which [is] **are** used
49 exclusively for the collection of recovered materials for delivery to a material recovery

50 processing plant but shall not include motor vehicles used on highways. For purposes of this
51 section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to
52 section 301.010, RSMo. **Material recovery is not the reuse of materials within a**
53 **manufacturing process or the use of a product previously recovered. The material**
54 **recovery processing plant shall qualify under the provisions of this section regardless of**
55 **ownership of the material being recovered;**

56 (5) Machinery and equipment, and parts and the materials and supplies solely required
57 for the installation or construction of such machinery and equipment, purchased and used to
58 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
59 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
60 which is intended to be sold ultimately for final use or consumption;

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

64 (7) Animals or poultry used for breeding or feeding purposes;

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

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

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

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

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

86 facility;

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

89 (14) Machinery, equipment, appliances and devices purchased or leased and used solely
90 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies
91 solely required for the installation, construction or reconstruction of such machinery, equipment,
92 appliances and devices, and so certified as such by the director of the department of natural
93 resources, except that any action by the director pursuant to this subdivision may be appealed to
94 the air conservation commission which may uphold or reverse such action;

95 (15) Machinery, equipment, appliances and devices purchased or leased and used solely
96 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies
97 solely required for the installation, construction or reconstruction of such machinery, equipment,
98 appliances and devices, and so certified as such by the director of the department of natural
99 resources, except that any action by the director pursuant to this subdivision may be appealed to
100 the Missouri clean water commission which may uphold or reverse such action;

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

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

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

122 nonprescription drugs to individuals with disabilities;

123 (19) All sales made by or to religious and charitable organizations and institutions in
124 their religious, charitable or educational functions and activities and all sales made by or to all
125 elementary and secondary schools operated at public expense in their educational functions and
126 activities;

127 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
128 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
129 including fraternal organizations which have been declared tax-exempt organizations pursuant
130 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic
131 or charitable functions and activities and all sales made to eleemosynary and penal institutions
132 and industries of the state, and all sales made to any private not-for-profit institution of higher
133 education not otherwise excluded pursuant to subdivision (19) of this subsection or any
134 institution of higher education supported by public funds, and all sales made to a state relief
135 agency in the exercise of relief functions and activities;

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

143 (22) All sales made to any private not-for-profit elementary or secondary school, all sales
144 of feed additives, medications or vaccines administered to livestock or poultry in the production
145 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for
146 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,
147 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying
148 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as
149 defined in section 142.028, RSMo, and all sales of farm machinery and equipment, other than
150 airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives"
151 means tangible personal property which, when mixed with feed for livestock or poultry, is to be
152 used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides"
153 includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide
154 carriers used to improve or enhance the effect of a pesticide and the foam used to mark the
155 application of pesticides and herbicides for the production of crops, livestock or poultry. As used
156 in this subdivision, the term "farm machinery and equipment" means new or used farm tractors
157 and such other new or used farm machinery and equipment and repair or replacement parts

158 thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops,
159 raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for
160 ultimate sale at retail and one-half of each purchaser's purchase of diesel fuel therefor which is:

161 (a) Used exclusively for agricultural purposes;

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

163 (c) Used directly in producing farm products to be sold ultimately in processed form or
164 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
165 ultimately in processed form at retail;

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

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

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

188 (c) Each person making domestic use purchases of services or property and who uses any
189 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day
190 of the fourth month following the year of purchase, and without assessment, notice or demand,
191 file a return and pay sales tax on that portion of nondomestic purchases. Each person making
192 nondomestic purchases of services or property and who uses any portion of the services or
193 property so purchased for domestic use, and each person making domestic purchases on behalf

194 of occupants of residential apartments or condominiums through a single or master meter,
195 including service for common areas and facilities and vacant units, under a nonresidential utility
196 service rate classification may, between the first day of the first month and the fifteenth day of
197 the fourth month following the year of purchase, apply for credit or refund to the director of
198 revenue and the director shall give credit or make refund for taxes paid on the domestic use
199 portion of the purchase. The person making such purchases on behalf of occupants of residential
200 apartments or condominiums shall have standing to apply to the director of revenue for such
201 credit or refund;

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

205 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,
206 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
207 revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local
208 sales taxes on such excise taxes;

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

214 (27) All sales made to an interstate compact agency created pursuant to sections 70.370
215 to [70.430] **70.441**, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the
216 functions and activities of such agency as provided pursuant to the compact;

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

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

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

226 (31) Electrical energy or gas, whether natural, artificial or propane, **water, or other**
227 **utilities** which [is] **are** ultimately consumed in connection with the manufacturing of cellular
228 glass products **or in any material recovery processing plant as defined in subdivision (4) of**
229 **subsection 2 of this section;**

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

232 (33) Tangible personal property purchased for use or consumption directly or exclusively
233 in the research and development of prescription pharmaceuticals consumed by humans or
234 animals;

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

236 (35) All sales of feed which are developed for and used in the feeding of pets owned by
237 a commercial breeder when such sales are made to a commercial breeder, as defined in section
238 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

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

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

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

258 (37) Tangible personal property purchased for use or consumption directly or exclusively
259 in research or experimentation activities performed by life science companies and so certified
260 as such by the director of the department of economic development or the director's designees;
261 except that, the total amount of exemptions certified pursuant to this section shall not exceed one
262 million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of
263 this subdivision, the term "life science companies" means companies whose primary research
264 activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North
265 American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech

266 research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary
267 services). The exemption provided by this subdivision shall expire on June 30, 2003;

268 (38) All sales or other transfers of tangible personal property to a lessor[,] who leases
269 the property under a lease of one year or longer executed or in effect at the time of the sale or
270 other transfer[,] to an interstate compact agency created pursuant to sections 70.370 to [70.430]
271 **70.441**, RSMo, or sections 238.010 to 238.100, RSMo.