

FIRST REGULAR SESSION

HOUSE BILL NO. 964

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARRIS (110).

Read 1st time April 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2210L.011

AN ACT

To repeal sections 144.010, 265.300, 267.565, 276.606, 277.020, and 277.200, RSMo, and to enact in lieu thereof six new sections relating to livestock.

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

Section A. Sections 144.010, 265.300, 267.565, 276.606, 277.020, and 277.200, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 144.010, 265.300, 267.565, 276.606, 277.020, and 277.200, to read as follows: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. 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

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.

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

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

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

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

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

49 (8) "Research or experimentation activities", are the development of an experimental or
50 pilot model, plant process, formula, invention or similar property, and the improvement of
51 existing property of such type. Research or experimentation activities do not include activities

52 such as ordinary testing or inspection of materials or products for quality control, efficiency
53 surveys, advertising promotions or research in connection with literary, historical or similar
54 projects;

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

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

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

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

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

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

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

87 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express

88 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and
89 railroad safety of the department of economic development of Missouri, engaged in the
90 transportation of persons for hire;

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

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

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

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

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

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

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

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

114 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
115 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
116 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning
117 given it in section 700.010, RSMo.

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

265.300. The following terms as used in sections 265.300 to 265.470, unless the context
2 otherwise indicates, mean:

3 (1) "Adulterated", any meat or meat product under one or more of the circumstances
4 listed in Title XXI, Chapter 12, Section 601 of the United States Code as now constituted or
5 hereafter amended;

6 (2) "Capable of use as human food", any carcass, or part or product of a carcass, of any
7 animal unless it is denatured or otherwise identified, as required by regulation prescribed by the
8 director, to deter its use as human food, or is naturally inedible by humans;

9 (3) "Cold storage warehouse", any place for storing meat or meat products which
10 contains at any one time over two thousand five hundred pounds of meat or meat products
11 belonging to any one private owner other than the owner or operator of the warehouse;

12 (4) "Commercial plant", any establishment in which livestock or poultry are slaughtered
13 for transportation or sale as articles of commerce intended for or capable of use for human
14 consumption, or in which meat or meat products are prepared for transportation or sale as articles
15 of commerce, intended for or capable of use for human consumption;

16 (5) "Director", the director of the department of agriculture of this state, or his authorized
17 representative;

18 (6) "Livestock", cattle, calves, sheep, swine, ratite birds including but not limited to
19 ostrich and emu, aquatic products as defined in section 277.024, RSMo, **American bison or**
20 **buffalo**, elk documented as obtained from a legal source and not from the wild, goats, or horses,
21 other equines, or rabbits raised in confinement for human consumption;

22 (7) "Meat", any edible portion of livestock or poultry carcass or part thereof;

23 (8) "Meat product", anything containing meat intended for or capable of use for human
24 consumption, which is derived, in whole or in part, from livestock or poultry;

25 (9) "Misbranded", any meat or meat product under one or more of the circumstances
26 listed in Title XXI, Chapter 12, Section 601 of the United States Code as now constituted or
27 hereafter amended;

28 (10) "Official inspection mark", the symbol prescribed by the director stating that an
29 article was inspected and passed or condemned;

30 (11) "Poultry", any domesticated bird intended for human consumption;

31 (12) "Prepared", slaughtered, canned, salted, rendered, boned, cut up, or otherwise
32 manufactured or processed;

33 (13) "Unwholesome":

34 (a) Processed, prepared, packed or held under unsanitary conditions;

35 (b) Produced in whole or in part from livestock or poultry which has died other than by
36 slaughter.

267.565. Unless the context requires otherwise, as used in sections 267.560 to 267.660,
2 the following terms mean:

3 (1) "Accredited approved veterinarian", a veterinarian who has been accredited by the
4 United States Department of Agriculture and approved by the state department of agriculture and
5 who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine,

- 6 or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri,
7 duly licensed under laws of the state in which he resides, accredited by the United States
8 Department of Agriculture, and approved by the chief livestock sanitary official of that state;
- 9 (2) "Animal", an animal of the equine, bovine, porcine, ovine, caprine, or species
10 domesticated or semidomesticated;
- 11 (3) "Approved laboratory", a laboratory approved by the department;
- 12 (4) "Approved vaccine" or "bacterin", a vaccine or bacterin produced under the license
13 of the United States Department of Agriculture and approved by the department for the
14 immunization of animals against infectious and contagious disease;
- 15 (5) "Bird", a bird of the avian species;
- 16 (6) "Certified free herd", a herd of cattle, swine, goats or a flock of sheep or birds which
17 has met the requirements and the conditions set forth in sections 267.560 to 267.660 and as
18 required by the department and as recommended by the United States Department of Agriculture,
19 and for such status for a specific disease and for a herd of cattle, swine, goats or flock of sheep
20 or birds in another state which has met those minimum requirements and conditions under the
21 supervision of the livestock sanitary authority of the state in which said animals or birds are
22 domiciled, and as recommended by the United States Department of Agriculture for such status
23 for a specific disease;
- 24 (7) "Department" or "department of agriculture", the department of agriculture of the
25 state of Missouri, and when by this law the said department of agriculture is charged to perform
26 a duty, it shall be understood to authorize the performance of such duty by the director of
27 agriculture of the state of Missouri, or by the state veterinarian of the state of Missouri or his duly
28 authorized deputies acting under the supervision of the director of agriculture;
- 29 (8) "Infected animal" or "infected bird", an animal or bird which shows a positive
30 reaction to any recognized serological test or growth on culture or any other recognized test for
31 the detection of any disease of livestock or poultry as approved by the department or when
32 clinical symptoms and history justifies designating such animal or bird as being infected with a
33 contagious or infectious disease;
- 34 (9) "Isolated" or "isolation", a condition in which animals or birds are quarantined to a
35 certain designated premises and quarantined separately and apart from any other animals or birds
36 on adjacent premises;
- 37 (10) "Licensed market", a market as defined and licensed under chapter 277, RSMo;
- 38 (11) "Livestock", horses, cattle, swine, sheep, goats, ratite birds including but not limited
39 to ostrich and emu, aquatic products as defined in section 277.024, RSMo, **American bison or**
40 **buffalo**, elk documented as obtained from a legal source and not from the wild and raised in
41 confinement for human consumption or animal husbandry, poultry and other domesticated

42 animals or birds;

43 (12) "Official health certificate" is a legal record covering the requirements of the state
44 of Missouri executed on an official form of the standard size from the state of origin and
45 approved by the proper livestock sanitary official of the state of origin or an equivalent form
46 provided by the United States Department of Agriculture and issued by an approved, accredited,
47 licensed, graduate veterinarian;

48 (13) "Public stockyards", any public stockyards located within the state of Missouri and
49 subject to regulations of the United States Department of Agriculture or the Missouri department
50 of agriculture;

51 (14) "Quarantine", a condition in which an animal or bird of any species is restricted in
52 movement to a particular premises under such terms and conditions as may be designated by
53 order of the state veterinarian or his duly authorized deputies;

54 (15) "Traders" or "dealers", any person, firm or corporation engaged in the business of
55 buying, selling or exchange of livestock on any basis other than on a commission basis at any
56 sale pen, concentration point, farm, truck or other conveyance including persons, firms or
57 corporations employed as an agent of the vendor or purchaser excluding public stockyards under
58 federal supervision or markets licensed under sections 267.560 to 267.660 and under the
59 supervision of the department, breed association sales or any private farm sale.

276.606. As used in sections 276.600 to 276.661, the following terms mean:

2 (1) "Agent", any person authorized to act for a livestock dealer;

3 (2) "Dealer transactions", any purchase, sale, or exchange of livestock by a dealer, or
4 agent, representative, or consignee of a dealer or person in which any interest equitable or legal
5 is acquired or divested whether directly or indirectly;

6 (3) "Director", the director of the Missouri department of agriculture or his designated
7 representative;

8 (4) "Engaged in the business of buying, selling, or exchanging in commerce livestock",
9 sales and purchases of greater frequency than the person would make in feeding operation under
10 the normal operation of a farm, if the person is a farmer. If the person is not a farmer he is a
11 dealer engaged in the business of buying, selling, or exchanging in commerce livestock;

12 (5) "Livestock", cattle, swine, sheep, goats, horses and poultry, **American bison or**
13 **buffalo**, and other domesticated or semidomesticated or exotic animals;

14 (6) "Livestock dealer", any person engaged in the business of buying, selling, or
15 exchanging in commerce of livestock;

16 (7) "Livestock transactions", any purchase, sale or exchange of livestock by a person,
17 whether or not a livestock dealer, in which any interest equitable or legal is acquired or divested
18 whether directly or indirectly;

19 (8) "Official ear tag", a metal or plastic ear tag prescribed by the director conforming to
20 the nine character alpha-numeric national uniform ear-tagging system;

21 (9) "Person", any individual, partnership, corporation, association or other legal entity;

22 (10) "State veterinarian", the state veterinarian of the Missouri department of agriculture,
23 or his appointed agent.

277.020. The following terms as used in this chapter mean:

2 (1) "Livestock", cattle, swine, sheep, ratite birds including but not limited to ostrich and
3 emu, aquatic products as defined in section 277.024, **American bison or buffalo**, elk
4 documented as obtained from a legal source and not from the wild and raised in confinement for
5 human consumption or animal husbandry, goats and poultry, equine and exotic animals;

6 (2) "Livestock market", a place of business or place where livestock is concentrated for
7 the purpose of sale, exchange or trade made at regular or irregular intervals, whether at auction
8 or not, except this definition shall not apply to any public farm sale or purebred livestock sale,
9 or to any sale, transfer, or exchange of livestock from one person to another person for
10 movement or transfer to other farm premises or directly to a licensed market;

11 (3) "Livestock sale", the business of mediating, for a commission, or otherwise, sale,
12 purchase, or exchange transactions in livestock, whether or not at a livestock market; except the
13 term "livestock sale" shall not apply to order buyers, livestock dealers or other persons acting
14 directly as a buying agent for any third party;

15 (4) "Person", individuals, partnerships, corporations and associations;

16 (5) "State veterinarian", the state veterinarian of the Missouri state department of
17 agriculture.

277.200. As used in sections 277.200 to 277.215, the following terms mean:

2 (1) "Department", the department of agriculture;

3 (2) "Livestock", live cattle, swine, **American bison or buffalo**, or sheep;

4 (3) "Packer", a person who is engaged in the business of slaughtering livestock or
5 receiving, purchasing or soliciting livestock for slaughtering, the meat products of which are
6 directly or indirectly to be offered for resale or for public consumption. "Packer" includes an
7 agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer.
8 "Packer" does not include a cold storage plant, a frozen food locker plant exempt from federal
9 inspection requirements, a livestock market or livestock auction agency, any cattle buyer who
10 purchases twenty or fewer cattle per day or one hundred or fewer cattle per week, any hog buyer
11 who purchases fifty or fewer hogs per day or two hundred fifty or fewer hogs per week, or any
12 sheep buyer who purchases fifty or fewer sheep per day or two hundred fifty or fewer sheep per
13 week.