

SECOND REGULAR SESSION

SENATE BILL NO. 699

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Pre-filed December 1, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2528S.011

AN ACT

To repeal sections 143.111, 143.961, 144.805, 144.807 and 147.010, RSMo, relating to commercial airline carriers, and to enact in lieu thereof eight new sections relating to the same subject, with an expiration date for certain sections and an emergency clause.

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

Section A. Sections 143.111, 143.961, 144.805, 144.807 and 147.010, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 135.775, 143.111, 143.961, 143.1015, 143.1016, 144.805, 144.807 and 147.010, to read as follows:

135.775. 1. As used in this section, the following terms shall mean:

(1) "Airline company", a company which meets the definition contained in subdivision (2) of section 155.010, RSMo;

(2) "Employee", a full-time or part-time worker employed by an airline company and who is not an independent contractor;

(3) "State tax liability", any liability incurred by an airline company pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, and related provisions.

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

2. Any airline company shall be allowed to claim a tax credit against the company's state tax liability for the costs and expenses of training employees in matters of airline flight security, airport security, passenger security, baggage security, and any other measures of security considered necessary to properly and adequately ensure the safety of all persons involved in commercial airline travel and in the provision of related services. Within the discretion of the director of the department of economic development, the tax credit claimed pursuant to this section may be allowed in an amount up to fifty percent of the costs and expenses of an employee's security training. For each fiscal year of the state, the maximum credit per employee that may be certified by the department of economic development shall be no more than one thousand five hundred dollars. The maximum aggregate credits which may be certified in any fiscal year of the state pursuant to this section shall be no more than one million five hundred thousand dollars. Tax credits certified pursuant to this section may be carried forward for a period not to exceed five years and may not be sold, transferred or assigned.

3. No claim for tax credits submitted to the department of economic development by an airline company shall be certified until the airline company provides documentation that an employee has successfully completed the required security training course. It must be demonstrated satisfactorily to the department that the completed training course provides adequate training in matters of airline security.

143.111. The Missouri taxable income of a resident shall be such resident's Missouri adjusted gross income less:

(1) Either the Missouri standard deduction or the Missouri itemized deduction;

(2) The Missouri deduction for personal exemptions;

(3) The Missouri deduction for dependency exemptions;

(4) The deduction for federal income taxes provided in section 143.171;

[and]

(5) The deduction for a self-employed individual's health insurance costs provided in section 143.113; **and**

(6) The deduction for airline tickets provided in section 143.1016.

143.961. 1. The director of revenue shall administer and enforce the tax imposed by sections 143.011 to 143.996 and [he] **the director** is authorized to make such rules and regulations and to require such facts and information to be reported, as [he] **the director** may deem necessary to enforce the provisions of sections 143.011 to 143.996. The director of revenue may for enforcement and administrative purposes establish temporary or permanent branch offices.

2. The rules and regulations prescribed by the director of revenue shall follow as nearly as practicable the rules and regulations of the Secretary of the Treasury of the United States or his delegate regarding income taxation. Such construction of sections 143.011 to 143.996 will further their purposes to simplify the preparation of income tax returns, aid in their interpretation through use of federal precedents, and improve their enforcement.

3. The director of revenue shall extend the time by which an airline company, as defined in section 155.010, RSMo, shall perform any act required by this chapter, or any act required by any rule or regulation promulgated pursuant to this chapter. Said extension of time shall be for a period not less than ninety days nor more than one hundred eighty days. The provisions of this subsection shall expire on December 31, 2003.

143.1015. In addition to the exemptions granted pursuant to the provisions of section 144.030, RSMo, there is also specifically exempted from the provisions of sections 144.010 to 144.525, RSMo, sections 144.600 to 144.761, RSMo, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, RSMo, sections 144.600 to 144.761, RSMo, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all amounts paid for passenger tickets for flights on commercial aircraft, as defined in section 155.010, RSMo, for any flight which originates or terminates, or both, within the state of Missouri, or which is a connecting flight to a flight which originates or terminates, or both, within the state of Missouri. The provisions of this section shall expire on December 31, 2003.

143.1016. An individual taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income an amount equal to the amount which the taxpayer has paid during the taxable year for

passenger tickets for flights on commercial aircraft, as defined in section 155.010, RSMo, for any flight which originates or terminates, or both, within the state of Missouri, or which is a connecting flight to a flight which originates or terminates, or both, within the state of Missouri, and which flight originates on or after January 1, 2002, and terminates on or before December 31, 2003. The amount of the deduction allowed to the taxpayer for each qualifying airline ticket purchased shall not exceed the out-of-pocket cost of the ticket incurred by the taxpayer, and shall be reduced by the amount of any reimbursement, refund or other cash consideration which the taxpayer received against all or any part of the taxpayer's out-of-pocket cost for the ticket. In the event a deduction is claimed and granted pursuant to this section prior to the taxpayer's receipt of a reimbursement, refund or other cash consideration, the taxpayer shall recapture the amount of any such consideration received against all or any part of the taxpayer's cost for the ticket by adding the amount of the consideration to the taxpayer's Missouri adjusted gross income in the tax year in which the consideration is received.

144.805. 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect

that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of [this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993] **subsections 1 and 2 of this section shall apply to all purchases and deliveries of aviation jet fuel occurring on or after May 10, 1993, and prior to January 1, 2002. Subsection 5 of this section shall apply to all purchases and deliveries of aviation jet fuel occurring on or after January 1, 2002, and on or before December 31, 2003.**

4. Effective September 1, 1998, all sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section 305.230, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed five million dollars in each calendar year.

5. [The provisions of this section and section 144.807 shall expire on December 31, 2003] **In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.761, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.761, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage,**

use and consumption of such aviation jet fuel by such common carriers, which sales, storage, use or consumption occur on or after January 1, 2002, and on or before December 31, 2003. To qualify for the exemption prescribed in this subsection, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this subsection is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this subsection, and to permit appropriate claims for refunds of any excess sales and use taxes collected with respect to any such common carrier and aviation jet fuel.

144.807. 1. In addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable under sections 144.010 to 144.525, 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, the purchase or storage by any common carrier engaged in the interstate air transportation of persons and cargo of tangible personal property, other than [catered food and beverage products purchased for in-flight consumption and] aviation jet fuel, within the state of Missouri, which tangible personal property is purchased or stored in the state of Missouri and is subsequently transported out of state by the common carrier and is used by the common carrier in the conduct of its business as a common carrier.

2. Any use of the tangible personal property by the common carrier, other than that incident to the delivery of the property to the carrier, the storage of the property by the carrier pending out-of-state transportation of the property by the carrier and the out-of-state transportation of the property by the carrier and subsequent use in the conduct of its business as a common carrier, shall subject the common carrier to liability for payment of sales and use tax, as applicable, with respect to such property so used by the common carrier in the state of Missouri, as if this exemption did not apply.

3. To qualify for the exemption under this section, the common carrier shall file an election with the department of revenue whereby the common carrier will agree to pay the state three hundred thousand dollars annually in equal

monthly payments, on or before the fifteenth day of each such month, for the privilege of this election, and shall further agree that it will maintain records documenting the use and transportation of the tangible personal property outside the state of Missouri, as required under this section. Once a common carrier makes this election, it may furnish its vendors a certificate in writing that it is a common carrier qualifying for exemption under this section and can purchase tangible personal property free of sales and use taxes. To the extent the purchased property is used for its intended purpose in the state of Missouri, the carrier shall remit the appropriate tax directly to the department of revenue.

4. For all months which begin on or after January 1, 2002, and end on or before December 31, 2003, the election which is required to be filed pursuant to subsection 3 of this section shall be waived and all common carriers otherwise qualified for the exemption provided by this section shall be deemed qualified and shall not be required to agree to make monthly payments for the privilege of the exemption. All monthly payments required by subsection 3 of this section shall be waived for each calendar month which begins on or after January 1, 2002, and ends on or before December 31, 2003. All common carriers which claim the exemption in this section at any time during the period of January 1, 2002 to December 31, 2003, shall maintain records documenting the use and transportation of the tangible personal property outside the state of Missouri as required by this section and may furnish its vendors a certificate in writing that it is a common carrier qualifying for exemption pursuant to this section and can purchase tangible personal property free of sales and use taxes. To the extent the purchased property is used for its intended purpose in the state of Missouri, the carrier shall remit the appropriate tax directly to the department of revenue.

147.010. 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351, RSMo, or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any

part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state. For all taxable years beginning on or after January 1, 2000, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus [does] **do not** exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue.

2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit, nor to corporations organized pursuant to the provisions of chapter 349, RSMo, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which pay an annual tax on their premium receipts in this state, nor to state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance corporation not having shares, nor to a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection

and benefit to its members and the payment of stipulated sums of moneys to the family, heirs, executors, administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature coming within the provisions of section 147.050 and doing business in this state, nor to savings and loan associations and domestic and foreign regulated investment companies as defined by Section 170 of the Act of Congress commonly known as the "Revenue Act of 1942", nor to electric and telephone corporations organized pursuant to chapter 351, RSMo, and chapter 392, RSMo, prior to January 1, 1980, which have been declared tax exempt organizations pursuant to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

3. The provisions of sections 147.010 to 147.120 shall not apply to airline companies, as defined in section 155.010, RSMo, which do business in this state. The provisions of this subsection shall expire on December 31, 2003.

4. A corporation's "taxable year" for purposes of sections 147.010 to [147.020] **147.120** shall be its taxable year as provided in section 143.271, RSMo.

[4.] **5.** A corporation's "transitional year" for the purposes of sections 147.010 to [147.020] **147.120** shall be its taxable year which includes parts of each of the years 1979 and 1980.

[5.] **6.** The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, RSMo, shall be similarly computed pursuant to regulations prescribed by the director of revenue.

[6.] **7.** All franchise reports and franchise taxes shall be returned to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

[7.] **8.** Pursuant to section 32.057, RSMo, the director of revenue shall maintain the confidentiality of all franchise tax reports returned to the director.

[8.] **9.** The director of the department of revenue shall honor all existing agreements between taxpayers and the director of the department of revenue.

Section B. Because immediate action is necessary to provide economic stimulus and support to the commercial airline industry operating in Missouri following the terrorist hijacking events of September 11, 2001, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

✓

Unofficial

Bill

Copy