

SECOND REGULAR SESSION

SENATE BILL NO. 659

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3728S.01I

AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales and use tax exemptions for nondomestic game birds sold for hunting.

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Section A. Section 144.010, RSMo, is repealed and one new section
2 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
2 sections 144.010 to 144.525 have the meanings ascribed to them in this section,
3 except when the context indicates a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and
5 other similar accommodations and charges made therefor and amount paid for
6 admission, exclusive of any admission tax imposed by the federal government or
7 by sections 144.010 to 144.525;

8 (2) "Business" includes any activity engaged in by any person, or caused
9 to be engaged in by him, with the object of gain, benefit or advantage, either
10 direct or indirect, and the classification of which business is of such character as
11 to be subject to the terms of sections 144.010 to 144.525. The isolated or
12 occasional sale of tangible personal property, service, substance, or thing, by a
13 person not engaged in such business, does not constitute engaging in business
14 within the meaning of sections 144.010 to 144.525 unless the total amount of the
15 gross receipts from such sales, exclusive of receipts from the sale of tangible
16 personal property by persons which property is sold in the course of the partial
17 or complete liquidation of a household, farm or nonbusiness enterprise, exceeds
18 three thousand dollars in any calendar year. The provisions of this subdivision
19 shall not be construed to make any sale of property which is exempt from sales
20 tax or use tax on June 1, 1977, subject to that tax thereafter;

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

38 (4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not
39 limited to, ostrich and emu, **nondomestic game birds sold for sport**
40 **hunting**, aquatic products as defined in section 277.024, RSMo, llamas, alpaca,
41 buffalo, elk documented as obtained from a legal source and not from the wild,
42 goats, horses, other equine, or rabbits raised in confinement for human
43 consumption. **For purposes of this section, "nondomestic game birds"**
44 **shall include, but not be limited to, pheasant, quail, dove, pigeon,**
45 **prairie chicken, wild turkey, and grouse;**

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

52 (6) "Person" includes any individual, firm, copartnership, joint adventure,
53 association, corporation, municipal or private, and whether organized for profit
54 or not, state, county, political subdivision, state department, commission, board,
55 bureau or agency, except the state transportation department, estate, trust,
56 business trust, receiver or trustee appointed by the state or federal court,

57 syndicate, or any other group or combination acting as a unit, and the plural as
58 well as the singular number;

59 (7) "Purchaser" means a person who purchases tangible personal property
60 or to whom are rendered services, receipts from which are taxable under sections
61 144.010 to 144.525;

62 (8) "Research or experimentation activities" are the development of an
63 experimental or pilot model, plant process, formula, invention or similar property,
64 and the improvement of existing property of such type. Research or
65 experimentation activities do not include activities such as ordinary testing or
66 inspection of materials or products for quality control, efficiency surveys,
67 advertising promotions or research in connection with literary, historical or
68 similar projects;

69 (9) "Sale" or "sales" includes installment and credit sales, and the
70 exchange of properties as well as the sale thereof for money, every closed
71 transaction constituting a sale, and means any transfer, exchange or barter,
72 conditional or otherwise, in any manner or by any means whatsoever, of tangible
73 personal property for valuable consideration and the rendering, furnishing or
74 selling for a valuable consideration any of the substances, things and services
75 herein designated and defined as taxable under the terms of sections 144.010 to
76 144.525;

77 (10) "Sale at retail" means any transfer made by any person engaged in
78 business as defined herein of the ownership of, or title to, tangible personal
79 property to the purchaser, for use or consumption and not for resale in any form
80 as tangible personal property, for a valuable consideration; except that, for the
81 purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
82 purchases of tangible personal property made by duly licensed physicians,
83 dentists, optometrists and veterinarians and used in the practice of their
84 professions shall be deemed to be purchases for use or consumption and not for
85 resale; and (ii) the selling of computer printouts, computer output or microfilm
86 or microfiche and computer-assisted photo compositions to a purchaser to enable
87 the purchaser to obtain for his or her own use the desired information contained
88 in such computer printouts, computer output on microfilm or microfiche and
89 computer-assisted photo compositions shall be considered as the sale of a service
90 and not as the sale of tangible personal property. Where necessary to conform to
91 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
92 "sale at retail" shall be construed to embrace:

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

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

97 (c) Sales of local and long distance telecommunications service to
98 telecommunications subscribers and to others through equipment of
99 telecommunications subscribers for the transmission of messages and
100 conversations, and the sale, rental or leasing of all equipment or services
101 pertaining or incidental thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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Bill

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