FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 241

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BROWN AND WASSON.

Read 1st time February 9, 2011, and ordered printed.

Read 2nd time February 10, 2011, and referred to the Committee on Ways and Means and Fiscal Oversight.

Reported from the Committee March 17, 2011, with recommendation that the bill do pass.

Taken up for Perfection April 6, 2011. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1410S.01P

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AN ACT

To repeal sections 144.010, 144.020, 144.030, and 144.070, RSMo, and to enact in lieu thereof four new sections relating to sales tax exemptions for captive wildlife.

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

Section A. Sections 144.010, 144.020, 144.030, and 144.070, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 144.010, 144.020, 144.030, and 144.070, 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

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

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 provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) **"Captive wildlife", includes but is not limited to exotic partridges, gray partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer, captive elk, and captive furbearers held under permit issued by the Missouri department of conservation for hunting purposes;**

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

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

[(5)**]** **(6)** "Motor vehicle leasing company" shall be a company obtaining a permit from the director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing trailers or motor vehicles need to

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51 obtain such a permit; however, no person failing to obtain such a permit may
52 avail itself of the optional tax provisions of subsection 5 of section 144.070, as
53 hereinafter provided;

54 **[**(6)**]** **(7)** "Person" includes any individual, firm, copartnership, joint
55 adventure, association, corporation, municipal or private, and whether organized
56 for profit or not, state, county, political subdivision, state department,
57 commission, board, bureau or agency, except the state transportation department,
58 estate, trust, business trust, receiver or trustee appointed by the state or federal
59 court, syndicate, or any other group or combination acting as a unit, and the
60 plural as well as the singular number;

61 **[**(7)**]** **(8)** "Purchaser" means a person who purchases tangible personal
62 property or to whom are rendered services, receipts from which are taxable under
63 sections 144.010 to 144.525;

64 **[**(8)**]** **(9)** "Research or experimentation activities" are the development of
65 an experimental or pilot model, plant process, formula, invention or similar
66 property, and the improvement of existing property of such type. Research or
67 experimentation activities do not include activities such as ordinary testing or
68 inspection of materials or products for quality control, efficiency surveys,
69 advertising promotions or research in connection with literary, historical or
70 similar projects;

71 **[**(9)**]** **(10)** "Sale" or "sales" includes installment and credit sales, and the
72 exchange of properties as well as the sale thereof for money, every closed
73 transaction constituting a sale, and means any transfer, exchange or barter,
74 conditional or otherwise, in any manner or by any means whatsoever, of tangible
75 personal property for valuable consideration and the rendering, furnishing or
76 selling for a valuable consideration any of the substances, things and services
77 herein designated and defined as taxable under the terms of sections 144.010 to
78 144.525;

79 **[**(10)**]** **(11)** "Sale at retail" means any transfer made by any person
80 engaged in business as defined herein of the ownership of, or title to, tangible
81 personal property to the purchaser, for use or consumption and not for resale in
82 any form as tangible personal property, for a valuable consideration; except that,
83 for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
84 purchases of tangible personal property made by duly licensed physicians,
85 dentists, optometrists and veterinarians and used in the practice of their
86 professions shall be deemed to be purchases for use or consumption and not for

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resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer-assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

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

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

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

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

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

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

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

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

[(13)**]** **(14)** "Telecommunications service", for the purpose of this chapter, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition,

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123 "information" means knowledge or intelligence represented by any form of
124 writing, signs, signals, pictures, sounds, or any other
125 symbols. Telecommunications service does not include the following if such
126 services are separately stated on the customer's bill or on records of the seller
127 maintained in the ordinary course of business:

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

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

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

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

136 **[**(14)**]** **(15)** "Product which is intended to be sold ultimately for final use
137 or consumption" means tangible personal property, or any service that is subject
138 to state or local sales or use taxes, or any tax that is substantially equivalent
139 thereto, in this state or any other state.

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

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

144.020. 1. A tax is hereby levied and imposed upon all sellers for the
2 privilege of engaging in the business of selling tangible personal property or
3 rendering taxable service at retail in this state. The rate of tax shall be as
4 follows:

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

12 (2) A tax equivalent to four percent of the amount paid for admission and
13 seating accommodations, or fees paid to, or in any place of amusement,

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14 entertainment or recreation, games and athletic events;

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

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

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

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

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

38 (8) A tax equivalent to four percent of the amount paid or charged for
39 rental or lease of tangible personal property, provided that if the lessor or renter
40 of any tangible personal property had previously purchased the property under
41 the conditions of "sale at retail" **[**as defined in subdivision (8) of section 144.010**]**
42 or leased or rented the property and the tax was paid at the time of purchase,
43 lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect
44 the tax on the subsequent lease, sublease, rental or subrental receipts from that
45 property. The purchase, rental or lease of motor vehicles, trailers, motorcycles,
46 mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax
47 paid as provided in this section and section 144.070. In no event shall the rental
48 or lease of boats and outboard motors be considered a sale, charge, or fee to, for
49 or in places of amusement, entertainment or recreation nor shall any such rental

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50 or lease be subject to any tax imposed to, for, or in such places of amusement,
51 entertainment or recreation. Rental and leased boats or outboard motors shall
52 be taxed under the provisions of the sales tax laws as provided under such laws
53 for motor vehicles and trailers. Tangible personal property which is exempt from
54 the sales or use tax under section 144.030 upon a sale thereof is likewise exempt
55 from the sales or use tax upon the lease or rental thereof.

56 2. All tickets sold which are sold under the provisions of sections 144.010
57 to 144.525 which are subject to the sales tax shall have printed, stamped or
58 otherwise endorsed thereon, the words "This ticket is subject to a sales tax.".

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

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, section 238.235, and sections 144.010
12 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied,
13 assessed or payable pursuant to the local sales tax law as defined in section
14 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

15 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
16 all or part of such excise tax is refunded pursuant to section 142.824; or upon the
17 sale at retail of fuel to be consumed in manufacturing or creating gas, power,
18 steam, electrical current or in furnishing water to be sold ultimately at retail; or
19 feed for livestock **[**or**],** poultry**, or captive wildlife**; or grain to be converted into
20 foodstuffs which are to be sold ultimately in processed form at retail; or seed,
21 limestone or fertilizer which is to be used for seeding, liming or fertilizing crops
22 which when harvested will be sold at retail or will be fed to livestock **[**or**],**
23 poultry**, or captive wildlife** to be sold ultimately in processed form at retail;
24 economic poisons registered pursuant to the provisions of the Missouri pesticide
25 registration law (sections 281.220 to 281.310) which are to be used in connection
26 with the growth or production of crops, fruit trees or orchards applied before,
27 during, or after planting, the crop of which when harvested will be sold at retail

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28 or will be converted into foodstuffs which are to be sold ultimately in processed
29 form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used
31 in manufacturing, processing, compounding, mining, producing or fabricating
32 become a component part or ingredient of the new personal property resulting
33 from such manufacturing, processing, compounding, mining, producing or
34 fabricating and which new personal property is intended to be sold ultimately for
35 final use or consumption; and materials, including without limitation, gases and
36 manufactured goods, including without limitation slagging materials and
37 firebrick, which are ultimately consumed in the manufacturing process by
38 blending, reacting or interacting with or by becoming, in whole or in part,
39 component parts or ingredients of steel products intended to be sold ultimately
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and
46 supplies solely required for the installation or construction of such replacement
47 machinery, equipment, and parts, used directly in manufacturing, mining,
48 fabricating or producing a product which is intended to be sold ultimately for
49 final use or consumption; and machinery and equipment, and the materials and
50 supplies required solely for the operation, installation or construction of such
51 machinery and equipment, purchased and used to establish new, or to replace or
52 expand existing, material recovery processing plants in this state. For the
53 purposes of this subdivision, a "material recovery processing plant" means a
54 facility that has as its primary purpose the recovery of materials into a useable
55 product or a different form which is used in producing a new product and shall
56 include a facility or equipment which are used exclusively for the collection of
57 recovered materials for delivery to a material recovery processing plant but shall
58 not include motor vehicles used on highways. For purposes of this section, the
59 terms motor vehicle and highway shall have the same meaning pursuant to
60 section 301.010. Material recovery is not the reuse of materials within a
61 manufacturing process or the use of a product previously recovered. The material
62 recovery processing plant shall qualify under the provisions of this section
63 regardless of ownership of the material being recovered;

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

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

(7) Animals or poultry used for breeding or feeding purposes**, or captive wildlife**;

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

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

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

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

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including

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treatment necessary to maintain or preserve such processing by the producer at the production facility;

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

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

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

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

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

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136 communication devices, and items used solely to modify motor vehicles to permit
137 the use of such motor vehicles by individuals with disabilities or sales of
138 over-the-counter or nonprescription drugs to individuals with disabilities;

139 (19) All sales made by or to religious and charitable organizations and
140 institutions in their religious, charitable or educational functions and activities
141 and all sales made by or to all elementary and secondary schools operated at
142 public expense in their educational functions and activities;

143 (20) All sales of aircraft to common carriers for storage or for use in
144 interstate commerce and all sales made by or to not-for-profit civic, social, service
145 or fraternal organizations, including fraternal organizations which have been
146 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
147 1986 Internal Revenue Code, as amended, in their civic or charitable functions
148 and activities and all sales made to eleemosynary and penal institutions and
149 industries of the state, and all sales made to any private not-for-profit institution
150 of higher education not otherwise excluded pursuant to subdivision (19) of this
151 subsection or any institution of higher education supported by public funds, and
152 all sales made to a state relief agency in the exercise of relief functions and
153 activities;

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

162 (22) All sales made to any private not-for-profit elementary or secondary
163 school, all sales of feed additives, medications or vaccines administered to
164 livestock or poultry in the production of food or fiber, all sales of pesticides used
165 in the production of crops, livestock or poultry for food or fiber, all sales of
166 bedding used in the production of livestock or poultry for food or fiber, all sales
167 of propane or natural gas, electricity or diesel fuel used exclusively for drying
168 agricultural crops, natural gas used in the primary manufacture or processing of
169 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity
170 used by an eligible new generation cooperative or an eligible new generation
171 processing entity as defined in section 348.432, and all sales of farm machinery

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172 and equipment, other than airplanes, motor vehicles and trailers. As used in this
173 subdivision, the term "feed additives" means tangible personal property which,
174 when mixed with feed for livestock or poultry, is to be used in the feeding of
175 livestock or poultry. As used in this subdivision, the term "pesticides" includes
176 adjuvants such as crop oils, surfactants, wetting agents and other assorted
177 pesticide carriers used to improve or enhance the effect of a pesticide and the
178 foam used to mark the application of pesticides and herbicides for the production
179 of crops, livestock or poultry. As used in this subdivision, the term "farm
180 machinery and equipment" means new or used farm tractors and such other new
181 or used farm machinery and equipment and repair or replacement parts thereon,
182 and supplies and lubricants used exclusively, solely, and directly for producing
183 crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for
184 producing milk for ultimate sale at retail, including field drain tile, and one-half
185 of each purchaser's purchase of diesel fuel therefor which is:

186 (a) Used exclusively for agricultural purposes;

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

189 (c) Used directly in producing farm products to be sold ultimately in
190 processed form or otherwise at retail or in producing farm products to be fed to
191 livestock or poultry to be sold ultimately in processed form at retail;

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

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

205 (b) Regulated utility sellers shall determine whether individual purchases
206 are exempt or nonexempt based upon the seller's utility service rate
207 classifications as contained in tariffs on file with and approved by the Missouri

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208 public service commission. Sales and purchases made pursuant to the rate
209 classification "residential" and sales to and purchases made by or on behalf of the
210 occupants of residential apartments or condominiums through a single or master
211 meter, including service for common areas and facilities and vacant units, shall
212 be considered as sales made for domestic use and such sales shall be exempt from
213 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
214 classified as nondomestic use. The seller's utility service rate classification and
215 the provision of service thereunder shall be conclusive as to whether or not the
216 utility must charge sales tax;

217 (c) Each person making domestic use purchases of services or property
218 and who uses any portion of the services or property so purchased for a
219 nondomestic use shall, by the fifteenth day of the fourth month following the year
220 of purchase, and without assessment, notice or demand, file a return and pay
221 sales tax on that portion of nondomestic purchases. Each person making
222 nondomestic purchases of services or property and who uses any portion of the
223 services or property so purchased for domestic use, and each person making
224 domestic purchases on behalf of occupants of residential apartments or
225 condominiums through a single or master meter, including service for common
226 areas and facilities and vacant units, under a nonresidential utility service rate
227 classification may, between the first day of the first month and the fifteenth day
228 of the fourth month following the year of purchase, apply for credit or refund to
229 the director of revenue and the director shall give credit or make refund for taxes
230 paid on the domestic use portion of the purchase. The person making such
231 purchases on behalf of occupants of residential apartments or condominiums shall
232 have standing to apply to the director of revenue for such credit or refund;

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

237 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,
238 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
239 States Code. The director of revenue shall promulgate rules pursuant to chapter
240 536 to eliminate all state and local sales taxes on such excise taxes;

241 (26) Sales of fuel consumed or used in the operation of ships, barges, or
242 waterborne vessels which are used primarily in or for the transportation of
243 property or cargo, or the conveyance of persons for hire, on navigable rivers

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244 bordering on or located in part in this state, if such fuel is delivered by the seller
245 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
246 river;

247 (27) All sales made to an interstate compact agency created pursuant to
248 sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the
249 functions and activities of such agency as provided pursuant to the compact;

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

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

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

260 (31) Electrical energy or gas, whether natural, artificial or propane, water,
261 or other utilities which are ultimately consumed in connection with the
262 manufacturing of cellular glass products or in any material recovery processing
263 plant as defined in subdivision (4) of this subsection;

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

267 (33) Tangible personal property and utilities purchased for use or
268 consumption directly or exclusively in the research and development of
269 agricultural/biotechnology and plant genomics products and prescription
270 pharmaceuticals consumed by humans or animals;

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

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

276 (36) All purchases by a contractor on behalf of an entity located in another
277 state, provided that the entity is authorized to issue a certificate of exemption for
278 purchases to a contractor under the provisions of that state's laws. For purposes
279 of this subdivision, the term "certificate of exemption" shall mean any document

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280 evidencing that the entity is exempt from sales and use taxes on purchases
281 pursuant to the laws of the state in which the entity is located. Any contractor
282 making purchases on behalf of such entity shall maintain a copy of the entity's
283 exemption certificate as evidence of the exemption. If the exemption certificate
284 issued by the exempt entity to the contractor is later determined by the director
285 of revenue to be invalid for any reason and the contractor has accepted the
286 certificate in good faith, neither the contractor or the exempt entity shall be liable
287 for the payment of any taxes, interest and penalty due as the result of use of the
288 invalid exemption certificate. Materials shall be exempt from all state and local
289 sales and use taxes when purchased by a contractor for the purpose of fabricating
290 tangible personal property which is used in fulfilling a contract for the purpose
291 of constructing, repairing or remodeling facilities for the following:

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

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

298 (37) All sales or other transfers of tangible personal property to a lessor
299 who leases the property under a lease of one year or longer executed or in effect
300 at the time of the sale or other transfer to an interstate compact agency created
301 pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

302 (38) Sales of tickets to any collegiate athletic championship event that is
303 held in a facility owned or operated by a governmental authority or commission,
304 a quasi-governmental agency, a state university or college or by the state or any
305 political subdivision thereof, including a municipality, and that is played on a
306 neutral site and may reasonably be played at a site located outside the state of
307 Missouri. For purposes of this subdivision, "neutral site" means any site that is
308 not located on the campus of a conference member institution participating in the
309 event;

310 (39) All purchases by a sports complex authority created under section
311 64.920, and all sales of utilities by such authority at the authority's cost that are
312 consumed in connection with the operation of a sports complex leased to a
313 professional sports team;

314 (40) Beginning January 1, 2009, but not after January 1, 2015, materials,
315 replacement parts, and equipment purchased for use directly upon, and for the

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316 modification, replacement, repair, and maintenance of aircraft, aircraft power
317 plants, and aircraft accessories;
318 (41) Sales of sporting clays, wobble, skeet, and trap targets to any
319 shooting range or similar places of business for use in the normal course of
320 business and money received by a shooting range or similar places of business
321 from patrons and held by a shooting range or similar place of business for
322 redistribution to patrons at the conclusion of a shooting event.

144.070. 1. At the time the owner of any new or used motor vehicle,
2 trailer, boat, or outboard motor which was acquired in a transaction subject to
3 sales tax under the Missouri sales tax law makes application to the director of
4 revenue for an official certificate of title and the registration of the motor vehicle,
5 trailer, boat, or outboard motor as otherwise provided by law, the owner shall
6 present to the director of revenue evidence satisfactory to the director of revenue
7 showing the purchase price exclusive of any charge incident to the extension of
8 credit paid by or charged to the applicant in the acquisition of the motor vehicle,
9 trailer, boat, or outboard motor, or that no sales tax was incurred in its
10 acquisition, and if sales tax was incurred in its acquisition, the applicant shall
11 pay or cause to be paid to the director of revenue the sales tax provided by the
12 Missouri sales tax law in addition to the registration fees now or hereafter
13 required according to law, and the director of revenue shall not issue a certificate
14 of title for any new or used motor vehicle, trailer, boat, or outboard motor subject
15 to sales tax as provided in the Missouri sales tax law until the tax levied for the
16 sale of the same under sections 144.010 to 144.510 has been paid as provided in
17 this section or is registered under the provisions of subsection 5 of this section.
18 2. As used in subsection 1 of this section, the term "purchase price" shall
19 mean the total amount of the contract price agreed upon between the seller and
20 the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard
21 motor, regardless of the medium of payment therefor.
22 3. In the event that the purchase price is unknown or undisclosed, or that
23 the evidence thereof is not satisfactory to the director of revenue, the same shall
24 be fixed by appraisement by the director.
25 4. The director of the department of revenue shall endorse upon the
26 official certificate of title issued by the director upon such application an entry
27 showing that such sales tax has been paid or that the motor vehicle, trailer, boat,
28 or outboard motor represented by such certificate is exempt from sales tax and
29 state the ground for such exemption.

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30 5. Any person, company, or corporation engaged in the business of renting
31 or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used
32 exclusively for rental or lease purposes, and not for resale, may apply to the
33 director of revenue for authority to operate as a leasing company. Any company
34 approved by the director of revenue may pay the tax due on any motor vehicle,
35 trailer, boat, or outboard motor as required in section 144.020 at the time of
36 registration thereof or in lieu thereof may pay a sales tax as provided in sections
37 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid
38 by a leasing company which does not exercise the option of paying in accordance
39 with section 144.020, on the amount charged for each rental or lease agreement
40 while the motor vehicle, trailer, boat, or outboard motor is domiciled in this
41 state. Any motor vehicle, trailer, boat, or outboard motor which is leased as the
42 result of a contract executed in this state shall be presumed to be domiciled in
43 this state.

44 6. Any corporation may have one or more of its divisions separately apply
45 to the director of revenue for authorization to operate as a leasing company,
46 provided that the corporation:

47 (1) Has filed a written consent with the director authorizing any of its
48 divisions to apply for such authority;

49 (2) Is authorized to do business in Missouri;

50 (3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or
51 outboard motor from one of its divisions to another of its divisions as a sale at
52 retail **[**within the meaning of subdivision (9) of subsection 1 of section 144.010**]**;

53 (4) Has registered under the fictitious name provisions of sections 417.200
54 to 417.230 each of its divisions doing business in Missouri as a leasing company;
55 and

56 (5) Operates each of its divisions on a basis separate from each of its other
57 divisions. However, when the transfer of a motor vehicle, trailer, boat or
58 outboard motor occurs within a corporation which holds a license to operate as
59 a motor vehicle or boat dealer pursuant to sections 301.550 to 301.573 the
60 provisions in subdivision (3) of this subsection shall not apply.

61 7. If the owner of any motor vehicle, trailer, boat, or outboard motor
62 desires to charge and collect sales tax as provided in this section, the owner shall
63 make application to the director of revenue for a permit to operate as a motor
64 vehicle, trailer, boat, or outboard motor leasing company. The director of revenue
65 shall promulgate rules and regulations determining the qualifications of such a

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company, and the method of collection and reporting of sales tax charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing companies under the provisions of subsection 5 of this section, and no motor vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all motor vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560 engaged in the business of selling motor vehicles or trailers may apply to the director of revenue for authority to collect and remit the sales tax required under this section on all motor vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit the tax is subject to all provisions under sections 144.010 to 144.525.

Any motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this subsection shall be entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue. In no event shall revenues from the general revenue fund or any other state fund be utilized to compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is held to violate article IV, section 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a court of competent jurisdiction declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and orders the return of such revenues.

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