

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1179 & 1765

97TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 8, 2014, with recommendation that the Senate Committee Substitute do pass.

4635S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 136.300, 142.815, 144.010, 144.018, 144.020, 144.030, and 144.044, RSMo, and to enact in lieu thereof seven new sections relating to taxation.

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

Section A. Sections 136.300, 142.815, 144.010, 144.018, 144.020, 144.030, 2 and 144.044, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 136.300, 142.815, 144.010, 144.018, 144.020, 144.030, and 4 144.044, to read as follows:

136.300. 1. With respect to any issue relevant to ascertaining the tax 2 liability of a taxpayer all laws of the state imposing a tax shall be strictly 3 construed against the taxing authority in favor of the taxpayer. The director of 4 revenue shall have the burden of proof with respect to any factual issue relevant 5 to ascertaining the liability of a taxpayer only if:

6 (1) The taxpayer has produced evidence that establishes that there is a 7 reasonable dispute with respect to the issue; and

8 (2) The taxpayer has adequate records of its transactions and provides the 9 department of revenue reasonable access to these records[; and

10 (3) In the case of a partnership, corporation or trust, the net worth of the 11 taxpayer does not exceed seven million dollars and the taxpayer does not have 12 more than five hundred employees at the time the final decision of the director 13 of the department of revenue is issued].

14 2. This section shall not apply to any issue with respect to the 15 applicability of any tax [exemption or] credit.

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

142.815. 1. Motor fuel used for the following nonhighway purposes is
2 exempt from the fuel tax imposed by this chapter, and a refund may be claimed
3 by the consumer, except as provided for in subdivision (1) of this subsection, if the
4 tax has been paid and no refund has been previously issued:

5 (1) Motor fuel used for nonhighway purposes including fuel for farm
6 tractors or stationary engines owned or leased and operated by any person and
7 used exclusively for agricultural purposes and including, beginning January 1,
8 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and
9 delivered by the ultimate vender to a farm location for agricultural purposes only.
10 As used in this section, the term "farmer" shall mean any person engaged in
11 farming in an authorized farm corporation, family farm, or family farm
12 corporation as defined in section 350.010. At the discretion of the ultimate
13 vender, the refund may be claimed by the ultimate vender on behalf of the
14 consumer for sales made to farmers and to persons engaged in construction for
15 agricultural purposes as defined in section 142.800. After December 31, 2000, the
16 refund may be claimed only by the consumer and may not be claimed by the
17 ultimate vender unless bulk sales of gasoline are made to a farmer after January
18 1, 2006, as provided in this subdivision and the farmer provides an exemption
19 certificate to the ultimate vender, in which case the ultimate vender may make
20 a claim for refund under section 142.824 but shall be liable for any erroneous
21 refund;

22 (2) Kerosene sold for use as fuel to generate power in aircraft engines,
23 whether in aircraft or for training, testing or research purposes of aircraft
24 engines;

25 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other
26 motorized flanged-wheel rail equipment, or used for other nonhighway purposes
27 other than as expressly exempted pursuant to another provision.

28 2. Subject to the procedural requirements and conditions set out in this
29 chapter, the following uses are exempt from the tax imposed by section 142.803
30 on motor fuel, and a deduction or a refund may be claimed:

31 (1) Motor fuel for which proof of export is available in the form of a
32 terminal-issued destination state shipping paper and which is either:

33 (a) Exported by a supplier who is licensed in the destination state or
34 through the bulk transfer system;

35 (b) Removed by a licensed distributor for immediate export to a state for
36 which all the applicable taxes and fees (however nominated in that state) of the

37 destination state have been paid to the supplier, as a trustee, who is licensed to
38 remit tax to the destination state; or which is destined for use within the
39 destination state by the federal government for which an exemption has been
40 made available by the destination state subject to procedural rules and
41 regulations promulgated by the director; or

42 (c) Acquired by a licensed distributor and which the tax imposed by this
43 chapter has previously been paid or accrued either as a result of being stored
44 outside of the bulk transfer system immediately prior to loading or as a diversion
45 across state boundaries properly reported in conformity with this chapter and was
46 subsequently exported from this state on behalf of the distributor; The exemption
47 pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on
48 the report of the supplier which is otherwise responsible for remitting the tax
49 upon removal of the product from a terminal or refinery in this state. The
50 exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed
51 by the distributor, upon a refund application made to the director within three
52 years. A refund claim may be made monthly or whenever the claim exceeds one
53 thousand dollars;

54 (2) Undyed K-1 kerosene sold at retail through dispensers which have
55 been designed and constructed to prevent delivery directly from the dispenser
56 into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through
57 nonbarricaded dispensers in quantities of not more than twenty-one gallons for
58 use other than for highway purposes. Exempt use of undyed kerosene shall be
59 governed by rules and regulations of the director. If no rules or regulations are
60 promulgated by the director, then the exempt use of undyed kerosene shall be
61 governed by rules and regulations of the Internal Revenue Service. A distributor
62 or supplier delivering to a retail facility shall obtain an exemption certificate from
63 the owner or operator of such facility stating that its sales conform to the
64 dispenser requirements of this subdivision. A licensed distributor, having
65 obtained such certificate, may provide a copy to his or her supplier and obtain
66 undyed kerosene without the tax levied by section 142.803. Having obtained such
67 certificate in good faith, such supplier shall be relieved of any responsibility if the
68 fuel is later used in a taxable manner. An ultimate vendor who obtained undyed
69 kerosene upon which the tax levied by section 142.803 had been paid and makes
70 sales qualifying pursuant to this subsection may apply for a refund of the tax
71 pursuant to application, as provided in section 142.818, to the director provided
72 the ultimate vendor did not charge such tax to the consumer;

73 (3) Motor fuel sold to the United States or any agency or instrumentality
74 thereof. This exemption shall be claimed as provided in section 142.818;

75 (4) Motor fuel used solely and exclusively as fuel to propel motor vehicles
76 on the public roads and highways of this state when leased or owned and when
77 being operated by a federally recognized Indian tribe in the performance of
78 essential governmental functions, such as providing police, fire, health or water
79 services. The exemption for use pursuant to this subdivision shall be made
80 available to the tribal government upon a refund application stating that the
81 motor fuel was purchased for the exclusive use of the tribe in performing named
82 essential governmental services;

83 (5) That portion of motor fuel used to operate equipment attached to a
84 motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor
85 vehicle that has a common fuel reservoir for travel on a highway and for the
86 operation of equipment, or if the motor fuel was placed in a separate fuel tank
87 and used only for the operation of auxiliary equipment. The exemption for use
88 pursuant to this subdivision shall be claimed by a refund claim filed by the
89 consumer who shall provide evidence of an allocation of use satisfactory to the
90 director;

91 (6) Motor fuel acquired by a consumer out-of-state and carried into this
92 state, retained within and consumed from the same vehicle fuel supply tank
93 within which it was imported, except interstate motor fuel users;

94 (7) Motor fuel which was purchased tax-paid and which was lost or
95 destroyed as a direct result of a sudden and unexpected casualty or which had
96 been accidentally contaminated so as to be unsalable as highway fuel as shown
97 by proper documentation as required by the director. The exemption pursuant
98 to this subdivision shall be refunded to the person or entity owning the motor fuel
99 at the time of the contamination or loss. Such person shall notify the director in
100 writing of such event and the amount of motor fuel lost or contaminated within
101 ten days from the date of discovery of such loss or contamination, and within
102 thirty days after such notice, shall file an affidavit sworn to by the person having
103 immediate custody of such motor fuel at the time of the loss or contamination,
104 setting forth in full the circumstances and the amount of the loss or
105 contamination and such other information with respect thereto as the director
106 may require;

107 (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This
108 exemption shall be claimed as follows:

109 (a) A supplier or importer shall take a deduction against motor fuel tax
110 owed on their monthly report for those gallons of dyed diesel fuel or dyed
111 kerosene imported or removed from a terminal or refinery destined for delivery
112 to a point in this state as shown on the shipping papers;

113 (b) This exemption shall be claimed by a deduction on the report of the
114 supplier which is otherwise responsible for remitting the tax on removal of the
115 product from a terminal or refinery in this state;

116 (c) This exemption shall be claimed by the distributor, upon a refund
117 application made to the director within three years. A refund claim may be made
118 monthly or whenever the claim exceeds one thousand dollars.

119 **(9 Motor fuel delivered to any marina within this state that sells**
120 **such fuel solely for use in any watercraft, as such term is defined in**
121 **section 306.010, and not accessible to other motor vehicles, is exempt**
122 **from the fuel tax imposed by this chapter. Any motor fuel distributor**
123 **that delivers motor fuel to any marina in this state for use solely in any**
124 **watercraft, as such term is defined in section 306.010, may claim the**
125 **exemption provided in this subsection. Any motor fuel customer who**
126 **purchases motor fuel for use in any watercraft, as such term is defined**
127 **in section 306.010, at a location other than a marina within this state**
128 **may claim the exemption provided in this subsection by filing a claim**
129 **for refund of the fuel tax.**

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. A person is "engaging
12 in business" in this state for purposes of sections 144.010 to 144.525 if such
13 person "engages in business in this state" or "maintains a place of business in
14 this state" under section 144.605. The isolated or occasional sale of tangible
15 personal property, service, substance, or thing, by a person not engaged in such

16 business, does not constitute engaging in business within the meaning of sections
17 144.010 to 144.525 unless the total amount of the gross receipts from such sales,
18 exclusive of receipts from the sale of tangible personal property by persons which
19 property is sold in the course of the partial or complete liquidation of a
20 household, farm or nonbusiness enterprise, exceeds three thousand dollars in any
21 calendar year. The provisions of this subdivision shall not be construed to make
22 any sale of property which is exempt from sales tax or use tax on June 1, 1977,
23 subject to that tax thereafter;

24 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray
25 partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl,
26 captive white-tailed deer, captive elk, and captive furbearers held under permit
27 issued by the Missouri department of conservation for hunting purposes. The
28 provisions of this subdivision shall not apply to sales tax on a harvested animal;

29 (4) "Gross receipts", except as provided in section 144.012, means the total
30 amount of the sale price of the sales at retail including any services other than
31 charges incident to the extension of credit that are a part of such sales made by
32 the businesses herein referred to, capable of being valued in money, whether
33 received in money or otherwise; except that, the term "gross receipts" shall not
34 include the sale price of property returned by customers when the full sale price
35 thereof is refunded either in cash or by credit. In determining any tax due under
36 sections 144.010 to 144.525 on the gross receipts, charges incident to the
37 extension of credit shall be specifically exempted. For the purposes of sections
38 144.010 to 144.525 the total amount of the sale price above mentioned shall be
39 deemed to be the amount received. It shall also include the lease or rental
40 consideration where the right to continuous possession or use of any article of
41 tangible personal property is granted under a lease or contract and such transfer
42 of possession would be taxable if outright sale were made and, in such cases, the
43 same shall be taxable as if outright sale were made and considered as a sale of
44 such article, and the tax shall be computed and paid by the lessee upon the
45 rentals paid;

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

51 (6) "Motor vehicle leasing company" shall be a company obtaining a

52 permit from the director of revenue to operate as a motor vehicle leasing
53 company. Not all persons renting or leasing trailers or motor vehicles need to
54 obtain such a permit; however, no person failing to obtain such a permit may
55 avail itself of the optional tax provisions of subsection 5 of section 144.070, as
56 hereinafter provided;

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

64 (8) "Purchaser" means a person who purchases tangible personal property
65 or to whom are rendered services, receipts from which are taxable under sections
66 144.010 to 144.525;

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

74 (10) "Sale" or "sales" includes installment and credit sales, and the
75 exchange of properties as well as the sale thereof for money, every closed
76 transaction constituting a sale, and means any transfer, exchange or barter,
77 conditional or otherwise, in any manner or by any means whatsoever, of tangible
78 personal property for valuable consideration and the rendering, furnishing or
79 selling for a valuable consideration any of the substances, things and services
80 herein designated and defined as taxable under the terms of sections 144.010 to
81 144.525;

82 (11) "Sale at retail" means any transfer made by any person engaged in
83 business as defined herein of the ownership of, or title to, tangible personal
84 property to the purchaser, for use or consumption and not for resale in any form
85 as tangible personal property, for a valuable consideration; except that, for the
86 purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
87 purchases of tangible personal property made by duly licensed physicians,

88 dentists, optometrists and veterinarians and used in the practice of their
89 professions shall be deemed to be purchases for use or consumption and not for
90 resale; and (ii) the selling of computer printouts, computer output or microfilm
91 or microfiche and computer-assisted photo compositions to a purchaser to enable
92 the purchaser to obtain for his or her own use the desired information contained
93 in such computer printouts, computer output on microfilm or microfiche and
94 computer-assisted photo compositions shall be considered as the sale of a service
95 and not as the sale of tangible personal property. Where necessary to conform to
96 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
97 "sale at retail" shall be construed to embrace:

98 (a) Sales of admission tickets[, cash admissions,] **and** charges and fees
99 **for admission** to [or in places of amusement, entertainment and recreation,
100 games and athletic events] **view sporting events, dance performances,**
101 **theater performances, orchestra, concerts, and other performing arts**
102 **productions, and amounts paid for admission to racetracks, arcades,**
103 **theme and amusement parks, water parks, circuses, carnivals, festivals,**
104 **air shows, museums, marinas, motion picture theaters, and other**
105 **commercial attractions. Such sales shall not include the amount paid**
106 **that results in the first opportunity to purchase or decline tickets for**
107 **admission to events, but does not itself result in admission. Such tax**
108 **shall not include any sales regardless of how offered and sold as a right**
109 **of first refusal, right to purchase, single admission ticket, bundled**
110 **package or season pass for admission and seating accommodations, or**
111 **fees paid to, or in any place having an exemption under subdivision**
112 **(21) of subsection 2 of section 144.030;**

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

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

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

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

124 served to the public;

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

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

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

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

143 (a) Access to the internet, access to interactive computer services or
144 electronic publishing services, except the amount paid for the telecommunications
145 service used to provide such access;

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

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

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

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

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

159 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales

160 Tax Law".

144.018. 1. Notwithstanding any other provision of law to the contrary,
2 except as provided under subsection 2 or 3 of this section, when a purchase of
3 tangible personal property or service subject to tax is made for the purpose of
4 resale, such purchase shall be either exempt or excluded under this chapter if the
5 subsequent sale is:

6 (1) Subject to a tax in this or any other state;

7 (2) For resale;

8 (3) Excluded from tax under this chapter;

9 (4) Subject to tax but exempt under this chapter; or

10 (5) Exempt from the sales tax laws of another state, if the subsequent sale
11 is in such other state.

12 The purchase of tangible personal property by a taxpayer shall not be deemed to
13 be for resale if such property is used or consumed by the taxpayer in providing
14 a service on which tax is not imposed by subsection 1 of section 144.020, except
15 purchases made in fulfillment of any obligation under a defense contract with the
16 United States government.

17 2. For purposes of subdivision (2) of subsection 1 of section 144.020, a
18 place [of amusement, entertainment or recreation, including games or athletic
19 events,] **subject to such tax** shall remit tax on the amount paid for admissions
20 or seating accommodations, or fees paid to, or in such place [of amusement,
21 entertainment or recreation]. Any subsequent sale of such admissions or seating
22 accommodations shall not be subject to tax if the initial sale was an arms length
23 transaction for fair market value with an unaffiliated entity. If the sale of such
24 admissions or seating accommodations is exempt or excluded from payment of
25 sales and use taxes, the provisions of this subsection shall not require the place
26 [of amusement, entertainment, or recreation] to remit tax on that sale. **Such**
27 **sales under subdivision (2) of subsection 1 of section 144.020 shall**
28 **include sales of admission tickets and charges and fees for admission**
29 **to view sporting events, dance performances, theater performances,**
30 **orchestra, concerts and other performing arts productions, and**
31 **amounts paid for admission to racetracks, arcades, theme and**
32 **amusement parks, water parks, circuses, carnivals, festivals, air shows,**
33 **museums, marinas, motion picture theaters, and other commercial**
34 **attractions. Such sales shall not include the amount paid that results**
35 **in the first opportunity to purchase or decline tickets for admission to**

36 **events, but does not itself result in admission. Such tax shall not**
37 **include any sales regardless of how offered and sold as a right of first**
38 **refusal, right to purchase, single admission ticket, bundled package or**
39 **season pass for admission and seating accommodations, or fees paid to,**
40 **or in any place having an exemption from taxation under subdivision**
41 **(21) of subsection 2 or section 144.030.**

42 3. For purposes of subdivision (6) of subsection 1 of section 144.020, a
43 hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist
44 cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly
45 served to the public shall remit tax on the amount of sales or charges for all
46 rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant,
47 eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in
48 which rooms, meals, or drinks are regularly served to the public. Any subsequent
49 sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale
50 was an arms length transaction for fair market value with an unaffiliated entity.
51 If the sale of such rooms, meals, or drinks is exempt or excluded from payment
52 of sales and use taxes, the provisions of this subsection shall not require the
53 hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist
54 cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly
55 served to the public to remit tax on that sale.

56 4. The provisions of this section are intended to reject and abrogate
57 earlier case law interpretations of the state's sales and use tax law with regard
58 to sales for resale as extended in *Music City Centre Management, LLC v. Director*
59 *of Revenue*, 295 S.W.3d 465, (Mo. 2009) and *ICC Management, Inc. v. Director of*
60 *Revenue*, 290 S.W.3d 699, (Mo. 2009). The provisions of this section are intended
61 to clarify the exemption or exclusion of purchases for resale from sales and use
62 taxes as originally enacted in this chapter.

144.020. 1. A tax is hereby levied and imposed for the privilege of titling
2 new and used motor vehicles, trailers, boats, and outboard motors purchased or
3 acquired for use on the highways or waters of this state which are required to be
4 titled under the laws of the state of Missouri and, except as provided in
5 subdivision (9) of this subsection, upon all sellers for the privilege of engaging in
6 the business of selling tangible personal property or rendering taxable service at
7 retail in this state. The rate of tax shall be as follows:

8 (1) Upon every retail sale in this state of tangible personal property,
9 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and

10 outboard motors required to be titled under the laws of the state of Missouri and
11 subject to tax under subdivision (9) of this subsection, a tax equivalent to four
12 percent of the purchase price paid or charged, or in case such sale involves the
13 exchange of property, a tax equivalent to four percent of the consideration paid
14 or charged, including the fair market value of the property exchanged at the time
15 and place of the exchange, except as otherwise provided in section 144.025;

16 (2) A tax equivalent to four percent of the amount paid for
17 admission **tickets** and [seating accommodations, or] **charges and fees [paid]**
18 to[, or in any place of amusement, entertainment or recreation, games and
19 athletic events] **view sporting events, dance performances, theater**
20 **performances, orchestra, concerts and other performing arts**
21 **productions, and amounts paid for admission to racetracks, arcades,**
22 **theme and amusement parks, water parks, circuses, carnivals, festivals,**
23 **air shows, museums, marinas, motion picture theaters, and other**
24 **commercial attractions. Such tax shall not be levied and imposed on**
25 **any amount paid that results in the first opportunity to purchase or**
26 **decline tickets for admission to events, but does not itself results in**
27 **admission. Such tax shall not include any sales regardless of how**
28 **offered and sold as a right of first refusal, right to purchase, single**
29 **admission ticket, bundled package or season pass for admission and**
30 **seating accommodations, or fees paid to, or in any place having an**
31 **exemption from taxation under subdivision (21) of subsection 2 or**
32 **section 144.030;**

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

36 (4) A tax equivalent to four percent on the basic rate paid or charged on
37 all sales of local and long distance telecommunications service to
38 telecommunications subscribers and to others through equipment of
39 telecommunications subscribers for the transmission of messages and
40 conversations and upon the sale, rental or leasing of all equipment or services
41 pertaining or incidental thereto; except that, the payment made by
42 telecommunications subscribers or others, pursuant to section 144.060, and any
43 amounts paid for access to the internet or interactive computer services shall not
44 be considered as amounts paid for telecommunications services;

45 (5) A tax equivalent to four percent of the basic rate paid or charged for

46 all sales of services for transmission of messages of telegraph companies;

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

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

56 (8) A tax equivalent to four percent of the amount paid or charged for
57 rental or lease of tangible personal property, provided that if the lessor or renter
58 of any tangible personal property had previously purchased the property under
59 the conditions of "sale at retail" or leased or rented the property and the tax was
60 paid at the time of purchase, lease or rental, the lessor, sublessor, renter or
61 subrenter shall not apply or collect the tax on the subsequent lease, sublease,
62 rental or subrental receipts from that property. The purchase, rental or lease of
63 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard
64 motors shall be taxed and the tax paid as provided in this section and section
65 144.070. In no event shall the rental or lease of boats and outboard motors be
66 considered a sale, charge, or fee to, for or in places of amusement, entertainment
67 or recreation nor shall any such rental or lease be subject to any tax imposed to,
68 for, or in such places of amusement, entertainment or recreation. Rental and
69 leased boats or outboard motors shall be taxed under the provisions of the sales
70 tax laws as provided under such laws for motor vehicles and trailers. Tangible
71 personal property which is exempt from the sales or use tax under section
72 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the
73 lease or rental thereof;

74 (9) A tax equivalent to four percent of the purchase price, as defined in
75 section 144.070, of new and used motor vehicles, trailers, boats, and outboard
76 motors purchased or acquired for use on the highways or waters of this state
77 which are required to be registered under the laws of the state of Missouri. This
78 tax is imposed on the person titling such property, and shall be paid according
79 to the procedures in section 144.440.

80 2. All tickets sold which are sold under the provisions of sections 144.010
81 to 144.525 which are subject to the sales tax shall have printed, stamped or

82 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 grain to be converted into foodstuffs which are to
20 be sold ultimately in processed form at retail; or seed, limestone or fertilizer
21 which is to be used for seeding, liming or fertilizing crops which when harvested
22 will be sold at retail or will be fed to livestock or poultry to be sold ultimately in
23 processed form at retail; economic poisons registered pursuant to the provisions
24 of the Missouri pesticide registration law (sections 281.220 to 281.310) which are
25 to be used in connection with the growth or production of crops, fruit trees or
26 orchards applied before, during, or after planting, the crop of which when
27 harvested will be sold at retail or will be converted into foodstuffs which are to
28 be sold ultimately in processed form at retail;

29 (2) Materials, manufactured goods, machinery and parts which when used
30 in manufacturing, processing, compounding, mining, producing or fabricating
31 become a component part or ingredient of the new personal property resulting
32 from such manufacturing, processing, compounding, mining, producing or
33 fabricating and which new personal property is intended to be sold ultimately for
34 final use or consumption; and materials, including without limitation, gases and
35 manufactured goods, including without limitation slagging materials and

36 firebrick, which are ultimately consumed in the manufacturing process by
37 blending, reacting or interacting with or by becoming, in whole or in part,
38 component parts or ingredients of steel products intended to be sold ultimately
39 for final use or consumption;

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

44 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and
45 the trailers pulled by such motor vehicles, that are actually used in the normal
46 course of business to haul property on the public highways of the state, and that
47 are capable of hauling loads commensurate with the motor vehicle's registered
48 weight; and the materials, replacement parts, and equipment purchased for use
49 directly upon, and for the repair and maintenance or manufacture of such
50 vehicles. For purposes of this subdivision "motor vehicle" and "public highway"
51 shall have the meaning as ascribed in section 390.020;

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

71 (6) Machinery and equipment, and parts and the materials and supplies

72 solely required for the installation or construction of such machinery and
73 equipment, purchased and used to establish new or to expand existing
74 manufacturing, mining or fabricating plants in the state if such machinery and
75 equipment is used directly in manufacturing, mining or fabricating a product
76 which is intended to be sold ultimately for final use or consumption;

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

80 (8) Animals or poultry used for breeding or feeding purposes, or captive
81 wildlife;

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

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

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

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

94 (13) Electrical energy used in the actual primary manufacture, processing,
95 compounding, mining or producing of a product, or electrical energy used in the
96 actual secondary processing or fabricating of the product, or a material recovery
97 processing plant as defined in subdivision (5) of this subsection, in facilities
98 owned or leased by the taxpayer, if the total cost of electrical energy so used
99 exceeds ten percent of the total cost of production, either primary or secondary,
100 exclusive of the cost of electrical energy so used or if the raw materials used in
101 such processing contain at least twenty-five percent recovered materials as
102 defined in section 260.200. There shall be a rebuttable presumption that the raw
103 materials used in the primary manufacture of automobiles contain at least
104 twenty-five percent recovered materials. For purposes of this subdivision,
105 "processing" means any mode of treatment, act or series of acts performed upon
106 materials to transform and reduce them to a different state or thing, including
107 treatment necessary to maintain or preserve such processing by the producer at

108 the production facility;

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

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

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

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

122 (18) All amounts paid or charged for admission or participation or other
123 fees paid by or other charges to individuals in or for any place of amusement,
124 entertainment or recreation, games or athletic events, including museums, fairs,
125 zoos and planetariums, owned or operated by a municipality or other political
126 subdivision where all the proceeds derived therefrom benefit the municipality or
127 other political subdivision and do not inure to any private person, firm, or
128 corporation, provided, however, that a municipality or other political subdivision
129 may enter into revenue-sharing agreements with private persons, firms, or
130 corporations providing goods or services, including management services, in or for
131 the place of amusement, entertainment or recreation, games or athletic events,
132 and provided further that nothing in this subdivision shall exempt from tax any
133 amounts retained by any private person, firm, or corporation under such revenue-
134 sharing agreement;

135 (19) All sales of insulin and prosthetic or orthopedic devices as defined on
136 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
137 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
138 of that act, and also specifically including hearing aids and hearing aid supplies
139 and all sales of drugs which may be legally dispensed by a licensed pharmacist
140 only upon a lawful prescription of a practitioner licensed to administer those
141 items, including samples and materials used to manufacture samples which may
142 be dispensed by a practitioner authorized to dispense such samples and all sales
143 or rental of medical oxygen, home respiratory equipment and accessories, hospital

144 beds and accessories and ambulatory aids, all sales or rental of manual and
145 powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment
146 and, if purchased or rented by or on behalf of a person with one or more physical
147 or mental disabilities to enable them to function more independently, all sales or
148 rental of scooters, reading machines, electronic print enlargers and magnifiers,
149 electronic alternative and augmentative communication devices, and items used
150 solely to modify motor vehicles to permit the use of such motor vehicles by
151 individuals with disabilities or sales of over-the-counter or nonprescription drugs
152 to individuals with disabilities, and drugs required by the Food and Drug
153 Administration to meet the over-the-counter drug product labeling requirements
154 in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner
155 licensed to prescribe;

156 (20) All sales made by or to religious and charitable organizations and
157 institutions in their religious, charitable or educational functions and activities
158 and all sales made by or to all elementary and secondary schools operated at
159 public expense in their educational functions and activities;

160 (21) All sales of aircraft to common carriers for storage or for use in
161 interstate commerce and all sales made by or to not-for-profit civic, social, service
162 or fraternal organizations, including fraternal organizations which have been
163 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
164 1986 Internal Revenue Code, as amended, in their civic or charitable functions
165 and activities and all sales made to eleemosynary and penal institutions and
166 industries of the state, and all sales made to any private not-for-profit institution
167 of higher education not otherwise excluded pursuant to subdivision (20) of this
168 subsection or any institution of higher education supported by public funds, and
169 all sales made to a state relief agency in the exercise of relief functions and
170 activities;

171 (22) All ticket sales made by benevolent, scientific and educational
172 associations which are formed to foster, encourage, and promote progress and
173 improvement in the science of agriculture and in the raising and breeding of
174 animals, and by nonprofit summer theater organizations if such organizations are
175 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
176 and all admission charges and entry fees to the Missouri state fair or any fair
177 conducted by a county agricultural and mechanical society organized and
178 operated pursuant to sections 262.290 to 262.530;

179 (23) All sales made to any private not-for-profit elementary or secondary

180 school, all sales of feed additives, medications or vaccines administered to
181 livestock or poultry in the production of food or fiber, all sales of pesticides used
182 in the production of crops, livestock or poultry for food or fiber, all sales of
183 bedding used in the production of livestock or poultry for food or fiber, all sales
184 of propane or natural gas, electricity or diesel fuel used exclusively for drying
185 agricultural crops, natural gas used in the primary manufacture or processing of
186 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity
187 used by an eligible new generation cooperative or an eligible new generation
188 processing entity as defined in section 348.432, and all sales of farm machinery
189 and equipment, other than airplanes, motor vehicles and trailers, and any freight
190 charges on any exempt item. As used in this subdivision, the term "feed
191 additives" means tangible personal property which, when mixed with feed for
192 livestock or poultry, is to be used in the feeding of livestock or poultry. As used
193 in this subdivision, the term "pesticides" includes adjuvants such as crop oils,
194 surfactants, wetting agents and other assorted pesticide carriers used to improve
195 or enhance the effect of a pesticide and the foam used to mark the application of
196 pesticides and herbicides for the production of crops, livestock or poultry. As
197 used in this subdivision, the term "farm machinery and equipment" means new
198 or used farm tractors and such other new or used farm machinery and equipment
199 and repair or replacement parts thereon and any accessories for and upgrades to
200 such farm machinery and equipment, rotary mowers used exclusively for
201 agricultural purposes, and supplies and lubricants used exclusively, solely, and
202 directly for producing crops, raising and feeding livestock, fish, poultry,
203 pheasants, chukar, quail, or for producing milk for ultimate sale at retail,
204 including field drain tile, and one-half of each purchaser's purchase of diesel fuel
205 therefor which is:

- 206 (a) Used exclusively for agricultural purposes;
- 207 (b) Used on land owned or leased for the purpose of producing farm
208 products; and
- 209 (c) Used directly in producing farm products to be sold ultimately in
210 processed form or otherwise at retail or in producing farm products to be fed to
211 livestock or poultry to be sold ultimately in processed form at retail;
- 212 (24) Except as otherwise provided in section 144.032, all sales of metered
213 water service, electricity, electrical current, natural, artificial or propane gas,
214 wood, coal or home heating oil for domestic use and in any city not within a
215 county, all sales of metered or unmetered water service for domestic use:

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

225 (b) Regulated utility sellers shall determine whether individual purchases
226 are exempt or nonexempt based upon the seller's utility service rate
227 classifications as contained in tariffs on file with and approved by the Missouri
228 public service commission. Sales and purchases made pursuant to the rate
229 classification "residential" and sales to and purchases made by or on behalf of the
230 occupants of residential apartments or condominiums through a single or master
231 meter, including service for common areas and facilities and vacant units, shall
232 be considered as sales made for domestic use and such sales shall be exempt from
233 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
234 classified as nondomestic use. The seller's utility service rate classification and
235 the provision of service thereunder shall be conclusive as to whether or not the
236 utility must charge sales tax;

237 (c) Each person making domestic use purchases of services or property
238 and who uses any portion of the services or property so purchased for a
239 nondomestic use shall, by the fifteenth day of the fourth month following the year
240 of purchase, and without assessment, notice or demand, file a return and pay
241 sales tax on that portion of nondomestic purchases. Each person making
242 nondomestic purchases of services or property and who uses any portion of the
243 services or property so purchased for domestic use, and each person making
244 domestic purchases on behalf of occupants of residential apartments or
245 condominiums through a single or master meter, including service for common
246 areas and facilities and vacant units, under a nonresidential utility service rate
247 classification may, between the first day of the first month and the fifteenth day
248 of the fourth month following the year of purchase, apply for credit or refund to
249 the director of revenue and the director shall give credit or make refund for taxes
250 paid on the domestic use portion of the purchase. The person making such
251 purchases on behalf of occupants of residential apartments or condominiums shall

252 have standing to apply to the director of revenue for such credit or refund;

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

257 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041,
258 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
259 States Code. The director of revenue shall promulgate rules pursuant to chapter
260 536 to eliminate all state and local sales taxes on such excise taxes;

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

267 (28) All sales made to an interstate compact agency created pursuant to
268 sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the
269 functions and activities of such agency as provided pursuant to the compact;

270 (29) Computers, computer software and computer security systems
271 purchased for use by architectural or engineering firms headquartered in this
272 state. For the purposes of this subdivision, "headquartered in this state" means
273 the office for the administrative management of at least four integrated facilities
274 operated by the taxpayer is located in the state of Missouri;

275 (30) All livestock sales when either the seller is engaged in the growing,
276 producing or feeding of such livestock, or the seller is engaged in the business of
277 buying and selling, bartering or leasing of such livestock;

278 (31) All sales of barges which are to be used primarily in the
279 transportation of property or cargo on interstate waterways;

280 (32) Electrical energy or gas, whether natural, artificial or propane, water,
281 or other utilities which are ultimately consumed in connection with the
282 manufacturing of cellular glass products or in any material recovery processing
283 plant as defined in subdivision (5) of this subsection;

284 (33) Notwithstanding other provisions of law to the contrary, all sales of
285 pesticides or herbicides used in the production of crops, aquaculture, livestock or
286 poultry;

287 (34) Tangible personal property and utilities purchased for use or

288 consumption directly or exclusively in the research and development of
289 agricultural/biotechnology and plant genomics products and prescription
290 pharmaceuticals consumed by humans or animals;

291 (35) All sales of grain bins for storage of grain for resale;

292 (36) All sales of feed which are developed for and used in the feeding of
293 pets owned by a commercial breeder when such sales are made to a commercial
294 breeder, as defined in section 273.325, and licensed pursuant to sections 273.325
295 to 273.357;

296 (37) All purchases by a contractor on behalf of an entity located in another
297 state, provided that the entity is authorized to issue a certificate of exemption for
298 purchases to a contractor under the provisions of that state's laws. For purposes
299 of this subdivision, the term "certificate of exemption" shall mean any document
300 evidencing that the entity is exempt from sales and use taxes on purchases
301 pursuant to the laws of the state in which the entity is located. Any contractor
302 making purchases on behalf of such entity shall maintain a copy of the entity's
303 exemption certificate as evidence of the exemption. If the exemption certificate
304 issued by the exempt entity to the contractor is later determined by the director
305 of revenue to be invalid for any reason and the contractor has accepted the
306 certificate in good faith, neither the contractor or the exempt entity shall be liable
307 for the payment of any taxes, interest and penalty due as the result of use of the
308 invalid exemption certificate. Materials shall be exempt from all state and local
309 sales and use taxes when purchased by a contractor for the purpose of fabricating
310 tangible personal property which is used in fulfilling a contract for the purpose
311 of constructing, repairing or remodeling facilities for the following:

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

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

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

322 (39) Sales of tickets to any collegiate athletic championship event that is
323 held in a facility owned or operated by a governmental authority or commission,

324 a quasi-governmental agency, a state university or college or by the state or any
325 political subdivision thereof, including a municipality, and that is played on a
326 neutral site and may reasonably be played at a site located outside the state of
327 Missouri. For purposes of this subdivision, "neutral site" means any site that is
328 not located on the campus of a conference member institution participating in the
329 event;

330 (40) All purchases by a sports complex authority created under section
331 64.920, and all sales of utilities by such authority at the authority's cost that are
332 consumed in connection with the operation of a sports complex leased to a
333 professional sports team;

334 (41) Beginning January 1, 2009, but not after January 1, 2015, materials,
335 replacement parts, and equipment purchased for use directly upon, and for the
336 modification, replacement, repair, and maintenance of aircraft, aircraft power
337 plants, and aircraft accessories;

338 (42) Sales of sporting clays, wobble, skeet, and trap targets to any
339 shooting range or similar places of business for use in the normal course of
340 business and money received by a shooting range or similar places of business
341 from patrons and held by a shooting range or similar place of business for
342 redistribution to patrons at the conclusion of a shooting event;

343 **(43) All sales of motor fuel, as defined in section 142.800, used in**
344 **any watercraft, as defined in section 306.010.**

345 3. Any ruling, agreement, or contract, whether written or oral, express or
346 implied, between a person and this state's executive branch, or any other state
347 agency or department, stating, agreeing, or ruling that such person is not
348 required to collect sales and use tax in this state despite the presence of a
349 warehouse, distribution center, or fulfillment center in this state that is owned
350 or operated by the person or an affiliated person shall be null and void unless it
351 is specifically approved by a majority vote of each of the houses of the general
352 assembly. For purposes of this subsection, an "affiliated person" means any
353 person that is a member of the same controlled group of corporations as defined
354 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the
355 vendor or any other entity that, notwithstanding its form of organization, bears
356 the same ownership relationship to the vendor as a corporation that is a member
357 of the same controlled group of corporations as defined in Section 1563(a) of the
358 Internal Revenue Code, as amended.

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

2 (1) "Sale of a modular unit", a transfer of a modular unit as defined in
3 section 700.010;

4 (2) "Sale of a new manufactured home", a transfer of a manufactured
5 home, as defined in section 700.010, which involves the delivery of the document
6 known as the manufacturer's statement of origin to a person other than a
7 manufactured home dealer, as dealer is defined in section 700.010, for purposes
8 of allowing such person to obtain a title to the manufactured home from the
9 department of revenue of this state or the appropriate agency or officer of any
10 other state;

11 **(3) "Sale of a used manufactured home", any subsequent sale of**
12 **a manufactured home as defined in section 700.010, which does not**
13 **qualify as "new" as defined in subdivision (9) of section 700.010.**

14 2. In the event of the sale of a new manufactured home, forty percent of
15 the purchase price, as defined in section 700.320, shall be considered the sale of
16 a service and not the sale of tangible personal property. In addition to the
17 exemptions granted under the provisions of section 144.030, the sale of services
18 as defined in this section shall be specifically exempted from the provisions of
19 sections 238.235 and 238.410, the local sales tax law as defined in section 32.085,
20 sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and from the
21 computation of the tax levied, assessed or payable under sections 238.235 and
22 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to
23 144.525 and 144.600 to [144.745] **144.761**, and section 238.235.

24 3. In the event of the sale of a new modular unit, forty percent of the
25 retail sale of the unit or forty percent of the manufacturer's sales price of the unit
26 if the manufacturer makes a sale to a consumer that is not a retail sale, plus any
27 carrier charge and freight charges shall be considered the sale of a service and
28 sixty percent shall be the retail sale of tangible personal property. In addition
29 to the exemptions granted under the provisions of section 144.030, the sale of
30 services as defined in this section shall be specifically exempted from the
31 provisions of sections 238.235 and 238.410, the local sales tax law as defined in
32 section 32.085, sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and
33 from the computation of the tax levied, assessed, or payable under sections
34 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections
35 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and section 238.235.

36 **4. In addition to the exemptions granted under the provisions of**
37 **section 144.030, the sale of a used manufactured home as defined in this**

38 section shall be specifically exempted from the provisions of sections
39 238.235 and 238.410, the local sales tax law as defined in section 32.085,
40 sections 144.010 to 144.525 and 144.600 to 144.761, and from the
41 computation of the tax levied, assessed, or payable under sections
42 238.235 and 238.410, the local sales tax law as defined in section 32.085,
43 sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235.

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