FIRST REGULAR SESSION

SENATE BILL NO. 472

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Read 1st time February 23, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1999S.01I

AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales taxes associated with honey bees.

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

Section A. Section 144.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.010, to read as follows:

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

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

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. A person is "engaging in business" in this state for purposes of sections 144.010 to 144.525 if such person engages in business in this state or maintains a place of business in this state under section 144.605. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar
year. The 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. The provisions of this subdivision shall not apply to sales tax on a harvested animal;

(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;

(5) "Instructional class", includes any class, lesson, or instruction intended or used for teaching;

(6) "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, honey bees, or rabbits raised in confinement for human consumption;

(7) "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 obtain such a permit; however, no person failing to obtain such a permit may
avail itself of the optional tax provisions of subsection 5 of section 144.070, as
hereinafter provided;

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

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

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

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

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

(13) "Sale at retail" means any transfer made by any person engaged in
business as defined herein of the ownership of, or title to, tangible personal
property to the purchaser, for use or consumption and not for resale in any form
as tangible personal property, for a valuable consideration; except that, for the
purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for 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, except amounts paid for any instructional class;

(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;

(14) "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;

(15) 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; and

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

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

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

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

(d) Cable or satellite television or music services.

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

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