

SENATE BILL NO. 453

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS BURLISON AND LUETKEMEYER.

1312S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to a cause of action against a public body for offering certain services.

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

Section A. Chapter 537, RSMo, is amended by adding thereto
2 one new section, to be known as section 537.048, to read as
3 follows:

537.048. 1. This section shall be known and may be
2 cited as the "Stop Socialism Act".

3 2. For purposes of this section, the following terms
4 mean:

5 (1) "Competitive service", a wholesale or retail
6 offering of a service by a person that is substantially
7 similar to a service being offered by the public body;
8 (2) "Person", a person, firm, a partner in a firm,
9 corporation or a shareholder in an S corporation doing
10 business in the state of Missouri and subject to the state
11 income tax imposed by the provisions of chapter 143,
12 including any charitable organization which is exempt from
13 federal income tax and whose Missouri unrelated business
14 taxable income, if any, would be subject to the state income
15 tax imposed under chapter 143, or an insurance company
16 paying an annual tax on its gross premium receipts in this
17 state, or other financial institution paying taxes to the
18 state of Missouri or any political subdivision of this state

19 pursuant to the provisions of chapter 148, or an express
20 company which pays an annual tax on its gross receipts in
21 this state pursuant to chapter 153, or an individual subject
22 to the state income tax imposed by the provisions of chapter
23 143;

24 (3) "Public body", the state or any of its agencies,
25 any county, city, town, village, or other political
26 subdivision.

27 3. Any person shall have a cause of action against a
28 public body if the public body provides, or offers to
29 provide, a competitive service that is also provided by the
30 person within the jurisdiction of the public body. The
31 provisions of this subsection shall not apply if the person
32 bringing the cause of action provided the competitive
33 service after the public body began providing such service
34 or if the public body demonstrates that there is an
35 overriding or compelling public interest served by the
36 competitive service. An overriding or compelling public
37 interest in a competitive service includes, but shall not be
38 limited to, services provided by the criminal justice system
39 and activities and services of various kinds provided by
40 educational institutions.

41 4. Upon a judgment rendered against a public body
42 offering a competitive service in a cause of action brought
43 pursuant to the provisions of section 537.048, the person
44 may apply for credit or refund to the director of revenue
45 and the director shall give credit or make refund for taxes
46 paid to the public body on the sale of any competitive
47 service made by the person.

48 5. In addition to the exemptions granted pursuant to
49 the provisions of section 144.030, there is also hereby
50 specifically exempted from the provisions of and from the

51 computation of the tax levied, assessed, or payable pursuant
52 to the local sales tax law, as defined in section 32.085,
53 and from the provisions of and from the computation of the
54 tax levied, assessed, or payable pursuant to chapter 144,
55 the sale of any competitive service made by a person who has
56 received a judgment rendered against a public body offering
57 a competitive service in a cause of action brought pursuant
58 to the provisions of section 537.048.

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