

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend Senate Bill No. 743, Page 1, Section TITLE, Lines 2-3,

2 by striking "a public safety"; and

3 Further amend said bill, page 7, Section 94.902, line
4 193, by inserting after all of said line the following:

5 "144.010. 1. The following words, terms, and phrases
6 when used in sections 144.010 to 144.525 have the meanings
7 ascribed to them in this section, except when the context
8 indicates a different meaning:

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

14 (2) "Business" includes any activity engaged in by any
15 person, or caused to be engaged in by him, with the object
16 of gain, benefit or advantage, either direct or indirect,
17 and the classification of which business is of such
18 character as to be subject to the terms of sections 144.010
19 to 144.525. A person is "engaging in business" in this
20 state for purposes of sections 144.010 to 144.525 if such
21 person engages in business activities within this state or
22 maintains a place of business in this state under section
23 144.605. The isolated or occasional sale of tangible
24 personal property, service, substance, or thing, by a person
25 not engaged in such business, does not constitute engaging
26 in business within the meaning of sections 144.010 to

27 144.525 unless the total amount of the gross receipts from
28 such sales, exclusive of receipts from the sale of tangible
29 personal property by persons which property is sold in the
30 course of the partial or complete liquidation of a
31 household, farm or nonbusiness enterprise, exceeds three
32 thousand dollars in any calendar year. The provisions of
33 this subdivision shall not be construed to make any sale of
34 property which is exempt from sales tax or use tax on June
35 1, 1977, subject to that tax thereafter;

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

43 (4) "Gross receipts", except as provided in section
44 144.012, means the total amount of the sale price of the
45 sales at retail including any services other than charges
46 incident to the extension of credit that are a part of such
47 sales made by the businesses herein referred to, capable of
48 being valued in money, whether received in money or
49 otherwise; except that, the term gross receipts shall not
50 include the sale price of property returned by customers
51 when the full sale price thereof is refunded either in cash
52 or by credit. In determining any tax due under sections
53 144.010 to 144.525 on the gross receipts, charges incident
54 to the extension of credit shall be specifically exempted.
55 For the purposes of sections 144.010 to 144.525 the total
56 amount of the sale price above mentioned shall be deemed to
57 be the amount received. It shall also include the lease or
58 rental consideration where the right to continuous
59 possession or use of any article of tangible personal

60 property is granted under a lease or contract and such
61 transfer of possession would be taxable if outright sale
62 were made and, in such cases, the same shall be taxable as
63 if outright sale were made and considered as a sale of such
64 article, and the tax shall be computed and paid by the
65 lessee upon the rentals paid. The term gross receipts shall
66 not include usual and customary delivery charges that are
67 stated separately from the sale price;

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

70 (6) "Livestock", cattle, calves, sheep, swine, ratite
71 birds, including but not limited to, ostrich and emu,
72 aquatic products as described in section 277.024, llamas,
73 alpaca, buffalo, bison, elk documented as obtained from a
74 legal source and not from the wild, goats, horses, other
75 equine, honey bees, or rabbits raised in confinement for
76 human consumption;

77 (7) "Motor vehicle leasing company" shall be a company
78 obtaining a permit from the director of revenue to operate
79 as a motor vehicle leasing company. Not all persons renting
80 or leasing trailers or motor vehicles need to obtain such a
81 permit; however, no person failing to obtain such a permit
82 may avail itself of the optional tax provisions of
83 subsection 5 of section 144.070, as hereinafter provided;

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

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

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

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

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

120 (13) "Sale at retail" means any transfer made by any
121 person engaged in business as defined herein of the
122 ownership of, or title to, tangible personal property to the
123 purchaser, for use or consumption and not for resale in any
124 form as tangible personal property, for a valuable
125 consideration; except that, for the purposes of sections

126 144.010 to 144.525 and the tax imposed thereby: (i)
127 purchases of tangible personal property made by duly
128 licensed physicians, dentists, optometrists and
129 veterinarians and used in the practice of their professions
130 shall be deemed to be purchases for use or consumption and
131 not for resale; and (ii) the selling of computer printouts,
132 computer output or microfilm or microfiche and computer-
133 assisted photo compositions to a purchaser to enable the
134 purchaser to obtain for his or her own use the desired
135 information contained in such computer printouts, computer
136 output on microfilm or microfiche and computer-assisted
137 photo compositions shall be considered as the sale of a
138 service and not as the sale of tangible personal property.
139 Where necessary to conform to the context of sections
140 144.010 to 144.525 and the tax imposed thereby, the term
141 sale at retail shall be construed to embrace:

142 (a) Sales of admission tickets, cash admissions,
143 charges and fees to or in places of amusement, entertainment
144 and recreation, games and athletic events, except amounts
145 paid for any instructional class;

146 (b) Sales of electricity, electrical current, water
147 and gas, natural or artificial, to domestic, commercial or
148 industrial consumers, except as provided in subdivision (12)
149 of subsection 1 of section 144.011;

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

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

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

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

169 (14) "Seller" means a person selling or furnishing
170 tangible personal property or rendering services, on the
171 receipts from which a tax is imposed pursuant to section
172 144.020;

173 (15) The noun "tax" means either the tax payable by
174 the purchaser of a commodity or service subject to tax, or
175 the aggregate amount of taxes due from the vendor of such
176 commodities or services during the period for which he or
177 she is required to report his or her collections, as the
178 context may require; and

179 (16) "Telecommunications service", for the purpose of
180 this chapter, the transmission of information by wire,
181 radio, optical cable, coaxial cable, electronic impulses, or
182 other similar means. As used in this definition,
183 "information" means knowledge or intelligence represented by
184 any form of writing, signs, signals, pictures, sounds, or
185 any other symbols. Telecommunications service does not
186 include the following if such services are separately stated
187 on the customer's bill or on records of the seller
188 maintained in the ordinary course of business:

189 (a) Access to the internet, access to interactive
190 computer services or electronic publishing services, except

191 the amount paid for the telecommunications service used to
192 provide such access;

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

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

199 (d) Cable or satellite television or music services.

200 2. For purposes of the taxes imposed under sections
201 144.010 to 144.525, and any other provisions of law
202 pertaining to sales or use taxes which incorporate the
203 provisions of sections 144.010 to 144.525 by reference, the
204 term manufactured homes shall have the same meaning given it
205 in section 700.010.

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

208 144.011. 1. For purposes of this chapter, and the
209 taxes imposed thereby, the definition of "retail sale" or
210 "sale at retail" shall not be construed to include any of
211 the following:

212 (1) The transfer by one corporation of substantially
213 all of its tangible personal property to another corporation
214 pursuant to a merger or consolidation effected under the
215 laws of the state of Missouri or any other jurisdiction;

216 (2) The transfer of tangible personal property
217 incident to the liquidation or cessation of a taxpayer's
218 trade or business, conducted in proprietorship, partnership
219 or corporate form, except to the extent any transfer is made
220 in the ordinary course of the taxpayer's trade or business;

221 (3) The transfer of tangible personal property to a
222 corporation solely in exchange for its stock or securities;

223 (4) The transfer of tangible personal property to a
224 corporation by a shareholder as a contribution to the
225 capital of the transferee corporation;

226 (5) The transfer of tangible personal property to a
227 partnership solely in exchange for a partnership interest
228 therein;

229 (6) The transfer of tangible personal property by a
230 partner as a contribution to the capital of the transferee
231 partnership;

232 (7) The transfer of tangible personal property by a
233 corporation to one or more of its shareholders as a
234 dividend, return of capital, distribution in the partial or
235 complete liquidation of the corporation or distribution in
236 redemption of the shareholder's interest therein;

237 (8) The transfer of tangible personal property by a
238 partnership to one or more of its partners as a current
239 distribution, return of capital or distribution in the
240 partial or complete liquidation of the partnership or of the
241 partner's interest therein;

242 (9) The transfer of reusable containers used in
243 connection with the sale of tangible personal property
244 contained therein for which a deposit is required and
245 refunded on return;

246 (10) The purchase by persons operating eating or food
247 service establishments, of items of a nonreusable nature
248 which are furnished to the customers of such establishments
249 with or in conjunction with the retail sales of their food
250 or beverage. Such items shall include, but not be limited
251 to, wrapping or packaging materials and nonreusable paper,
252 wood, plastic and aluminum articles such as containers,
253 trays, napkins, dishes, silverware, cups, bags, boxes,
254 straws, sticks and toothpicks;

255 (11) The purchase by persons operating hotels, motels
256 or other transient accommodation establishments, of items of
257 a nonreusable nature which are furnished to the guests in
258 the guests' rooms of such establishments and such items are
259 included in the charge made for such accommodations. Such
260 items shall include, but not be limited to, soap, shampoo,
261 tissue and other toiletries and food or confectionery items
262 offered to the guests without charge;

263 (12) The purchase by persons operating hotels, motels,
264 or other transient accommodation establishments of
265 electricity, electrical current, water, and gas, whether
266 natural or artificial, which are used to heat, cool, or
267 provide water or power to the guests' accommodations of such
268 establishments, including sleeping rooms, meeting and
269 banquet rooms, and any other customer space rented by
270 guests, and which are included in the charge made for such
271 accommodations. Any person required to remit sales tax on
272 such purchases prior to August 28, 2022, shall be entitled
273 to a refund on such taxes remitted;

274 (13) The transfer of a manufactured home other than:

275 (a) A transfer which involves the delivery of the
276 document known as the "Manufacturer's Statement of Origin"
277 to a person other than a manufactured home dealer, as
278 defined in section 700.010, for purposes of allowing such
279 person to obtain a title to the manufactured home from the
280 department of revenue of this state or the appropriate
281 agency or officer of any other state;

282 (b) A transfer which involves the delivery of a
283 "Repossessed Title" to a resident of this state if the tax
284 imposed by this chapter was not paid on the transfer of the
285 manufactured home described in paragraph (a) of this
286 subdivision;

287 (c) The first transfer which occurs after December 31,
288 1985, if the tax imposed by this chapter was not paid on any
289 transfer of the same manufactured home which occurred before
290 December 31, 1985; or

291 ~~[(13)]~~ (14) Charges for initiation fees or dues to:

292 (a) Fraternal beneficiaries societies, or domestic
293 fraternal societies, orders or associations operating under
294 the lodge system a substantial part of the activities of
295 which are devoted to religious, charitable, scientific,
296 literary, educational or fraternal purposes;

297 (b) Posts or organizations of past or present members
298 of the Armed Forces of the United States or an auxiliary
299 unit or society of, or a trust or foundation for, any such
300 post or organization substantially all of the members of
301 which are past or present members of the Armed Forces of the
302 United States or who are cadets, spouses, widows, or
303 widowers of past or present members of the Armed Forces of
304 the United States, no part of the net earnings of which
305 inures to the benefit of any private shareholder or
306 individual; or

307 (c) Nonprofit organizations exempt from taxation under
308 Section 501(c)(7) of the Internal Revenue Code of 1986, as
309 amended.

310 2. The assumption of liabilities of the transferor by
311 the transferee incident to any of the transactions
312 enumerated in the above subdivisions (1) to (8) of
313 subsection 1 of this section shall not disqualify the
314 transfer from the exclusion described in this section, where
315 such liability assumption is related to the property
316 transferred and where the assumption does not have as its
317 principal purpose the avoidance of Missouri sales or use tax.

318 144.813. In addition to all other exemptions granted
319 under this chapter, there is hereby specifically exempted

320 from the provisions of sections 144.010 to 144.525 and
321 144.600 to 144.761, and section 238.235, and the local sales
322 tax law as defined in section 32.085, and from the
323 computation of the tax levied, assessed, or payable under
324 sections 144.010 to 144.525 and 144.600 to 144.761, and
325 section 238.235, and the local sales tax law as defined in
326 section 32.085, all sales of class III medical devices as
327 described in 21 U.S.C. 360c(a)(1)(C) that use electric
328 fields for the purposes of the treatment of cancer including
329 components and repair parts and the disposable or single
330 patient use supplies required for the use of such devices.";
331 and

332 Further amend the title and enacting clause accordingly.