

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 756, Page 1, Section 34.045, Line 16,

2 by inserting after all of said line the following:

3 "144.010. 1. The following words, terms, and phrases
4 when used in sections 144.010 to 144.525 have the meanings
5 ascribed to them in this section, except when the context
6 indicates a different meaning:

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

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

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

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

41 (4) "Gross receipts", except as provided in section
42 144.012, means the total amount of the sale price of the
43 sales at retail including any services other than charges
44 incident to the extension of credit that are a part of such
45 sales made by the businesses herein referred to, capable of
46 being valued in money, whether received in money or
47 otherwise; except that, the term gross receipts shall not
48 include the sale price of property returned by customers
49 when the full sale price thereof is refunded either in cash
50 or by credit. In determining any tax due under sections
51 144.010 to 144.525 on the gross receipts, charges incident
52 to the extension of credit shall be specifically exempted.
53 For the purposes of sections 144.010 to 144.525 the total
54 amount of the sale price above mentioned shall be deemed to
55 be the amount received. It shall also include the lease or
56 rental consideration where the right to continuous
57 possession or use of any article of tangible personal
58 property is granted under a lease or contract and such
59 transfer of possession would be taxable if outright sale

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

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

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

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

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

91 (9) "Product which is intended to be sold ultimately
92 for final use or consumption" means tangible personal

93 property, or any service that is subject to state or local
94 sales or use taxes, or any tax that is substantially
95 equivalent thereto, in this state or any other state;

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

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

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

118 (13) "Sale at retail" means any transfer made by any
119 person engaged in business as defined herein of the
120 ownership of, or title to, tangible personal property to the
121 purchaser, for use or consumption and not for resale in any
122 form as tangible personal property, for a valuable
123 consideration; except that, for the purposes of sections
124 144.010 to 144.525 and the tax imposed thereby: (i)
125 purchases of tangible personal property made by duly

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

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

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

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

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

156 (e) Sales or charges for all rooms, meals and drinks
157 furnished at any hotel, motel, tavern, inn, restaurant,
158 eating house, drugstore, dining car, tourist camp, tourist

159 cabin, or other place in which rooms, meals or drinks are
160 regularly served to the public;

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

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

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

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

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

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

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

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

198 2. For purposes of the taxes imposed under sections
199 144.010 to 144.525, and any other provisions of law
200 pertaining to sales or use taxes which incorporate the
201 provisions of sections 144.010 to 144.525 by reference, the
202 term manufactured homes shall have the same meaning given it
203 in section 700.010.

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

206 144.011. 1. For purposes of this chapter, and the
207 taxes imposed thereby, the definition of "retail sale" or
208 "sale at retail" shall not be construed to include any of
209 the following:

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

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

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

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

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

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

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

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

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

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

253 (11) The purchase by persons operating hotels, motels
254 or other transient accommodation establishments, of items of
255 a nonreusable nature which are furnished to the guests in
256 the guests' rooms of such establishments and such items are

257 included in the charge made for such accommodations. Such
258 items shall include, but not be limited to, soap, shampoo,
259 tissue and other toiletries and food or confectionery items
260 offered to the guests without charge;

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

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

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

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

285 (c) The first transfer which occurs after December 31,
286 1985, if the tax imposed by this chapter was not paid on any
287 transfer of the same manufactured home which occurred before
288 December 31, 1985; or

289 [(13)] (14) Charges for initiation fees or dues to:

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

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

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

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

317 Further amend the title and enacting clause accordingly.