

SECOND REGULAR SESSION

SENATE BILL NO. 1534

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NICOLA.

6578S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales tax.

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Section A. Section 144.010, RSMo, is repealed and one new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

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

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

10 (2) "Business" includes any activity engaged in by any
11 person, or caused to be engaged in by him, with the object
12 of gain, benefit or advantage, either direct or indirect,
13 and the classification of which business is of such
14 character as to be subject to the terms of sections 144.010
15 to 144.525. A person is "engaging in business" in this state
16 for purposes of sections 144.010 to 144.525 if such person
17 engages in business activities within this state or
18 maintains a place of business in this state under section

19 144.605. The isolated or occasional sale of tangible
20 personal property, service, substance, or thing, by a person
21 not engaged in such business, does not constitute engaging
22 in business within the meaning of sections 144.010 to
23 144.525 unless the total amount of the gross receipts from
24 such sales, exclusive of receipts from the sale of tangible
25 personal property by persons which property is sold in the
26 course of the partial or complete liquidation of a
27 household, farm or nonbusiness enterprise, exceeds three
28 thousand dollars in any calendar year. The provisions of
29 this subdivision shall not be construed to make any sale of
30 property which is exempt from sales tax or use tax on June
31 1, 1977, subject to that tax thereafter;

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

39 (4) "Gross receipts", except as provided in section
40 144.012, means the total amount of the sale price of the
41 sales at retail including any services other than charges
42 incident to the extension of credit that are a part of such
43 sales made by the businesses herein referred to, capable of
44 being valued in money, whether received in money or
45 otherwise; except that, the term gross receipts shall not
46 include the sale price of property returned by customers
47 when the full sale price thereof is refunded either in cash
48 or by credit. In determining any tax due under sections
49 144.010 to 144.525 on the gross receipts, charges incident
50 to the extension of credit shall be specifically exempted.

51 **Charges incident to the extension of credit shall include**
52 **credit card and debit card processing fees.** For the
53 purposes of sections 144.010 to 144.525 the total amount of
54 the sale price above mentioned shall be deemed to be the
55 amount received. It shall also include the lease or rental
56 consideration where the right to continuous possession or
57 use of any article of tangible personal property is granted
58 under a lease or contract and such transfer of possession
59 would be taxable if outright sale were made and, in such
60 cases, the same shall be taxable as if outright sale were
61 made and considered as a sale of such article, and the tax
62 shall be computed and paid by the lessee upon the rentals
63 paid. The term gross receipts shall not include usual and
64 customary delivery charges that are stated separately from
65 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;

(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

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

(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".

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