

SECOND REGULAR SESSION

# SENATE BILL NO. 1036

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Read 1st time February 26, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6581S.011

## AN ACT

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

*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Section A. Section 144.010, RSMo, is repealed and one new section  
2 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  
2 sections 144.010 to 144.525 have the meanings ascribed to them in this section,  
3 except when the context indicates a different meaning:

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

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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 or nonbusiness enterprise, exceeds three thousand dollars in any calendar  
21 year. The provisions of this subdivision shall not be construed to make any sale  
22 of property which is exempt from sales tax or use tax on June 1, 1977, subject to  
23 that tax thereafter;

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

29 (4) "Gross receipts", except as provided in section 144.012, means the total  
30 amount of the sale price of the sales at retail including any services other than  
31 charges incident to the extension of credit that are a part of such sales made by  
32 the businesses herein referred to, capable of being valued in money, whether  
33 received in money or otherwise; except that, the term gross receipts shall not  
34 include the sale price of property returned by customers when the full sale price  
35 thereof is refunded either in cash or by credit. In determining any tax due under  
36 sections 144.010 to 144.525 on the gross receipts, charges incident to the  
37 extension of credit shall be specifically exempted. For the purposes of sections  
38 144.010 to 144.525 the total amount of the sale price above mentioned shall be  
39 deemed to be the amount received. It shall also include the lease or rental  
40 consideration where the right to continuous possession or use of any article of  
41 tangible personal property is granted under a lease or contract and such transfer  
42 of possession would be taxable if outright sale were made and, in such cases, the  
43 same shall be taxable as if outright sale were made and considered as a sale of  
44 such article, and the tax shall be computed and paid by the lessee upon the  
45 rentals paid. The term "gross receipts" shall not include usual and customary  
46 delivery charges that are stated separately from the sale price;

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

49 (6) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not  
50 limited to, ostrich and emu, aquatic products as defined in section 277.024,  
51 llamas, alpaca, buffalo, elk documented as obtained from a legal source and not  
52 from the wild, goats, horses, other equine, or rabbits raised in confinement for  
53 human consumption;

54 (7) **"Manufacturing", "mining", "fabricating", or "producing", are**  
55 **determined under the integrated plant theory and are consistent with**  
56 **the purposes of encouraging economic development through the**

57 **location and expansion of business in Missouri through the commercial**  
58 **production of products that are subject to sales tax and include, but are**  
59 **not limited to, removal of minerals from the ground, organizing**  
60 **information through computer technology, taking something practically**  
61 **unsuitable for any common use and changing it so as to adapt it to such**  
62 **common use, the production of telecommunications services, and using**  
63 **raw materials to produce products that have an intrinsic and**  
64 **merchantable value. Such definition is a clarification of existing law;**

65 **(8)** "Motor vehicle leasing company" shall be a company obtaining a  
66 permit from the director of revenue to operate as a motor vehicle leasing  
67 company. Not all persons renting or leasing trailers or motor vehicles need to  
68 obtain such a permit; however, no person failing to obtain such a permit may  
69 avail itself of the optional tax provisions of subsection 5 of section 144.070, as  
70 hereinafter provided;

71 **[(8)] (9)** "Person" includes any individual, firm, copartnership, joint  
72 adventure, association, corporation, municipal or private, and whether organized  
73 for profit or not, state, county, political subdivision, state department,  
74 commission, board, bureau or agency, except the state transportation department,  
75 estate, trust, business trust, receiver or trustee appointed by the state or federal  
76 court, syndicate, or any other group or combination acting as a unit, and the  
77 plural as well as the singular number;

78 **[(9)] (10)** "Product which is intended to be sold ultimately for final use  
79 or consumption" means tangible personal property, or any service that is subject  
80 to state or local sales or use taxes, or any tax that is substantially equivalent  
81 thereto, in this state or any other state;

82 **[(10)] (11)** "Purchaser" means a person who purchases tangible personal  
83 property or to whom are rendered services, receipts from which are taxable under  
84 sections 144.010 to 144.525;

85 **[(11)] (12)** "Research or experimentation activities" are the development  
86 of an experimental or pilot model, plant process, formula, invention or similar  
87 property, and the improvement of existing property of such type. Research or  
88 experimentation activities do not include activities such as ordinary testing or  
89 inspection of materials or products for quality control, efficiency surveys,  
90 advertising promotions or research in connection with literary, historical or  
91 similar projects;

92 **[(12)] (13)** "Sale" or "sales" includes installment and credit sales, and the  
93 exchange of properties as well as the sale thereof for money, every closed

94 transaction constituting a sale, and means any transfer, exchange or barter,  
95 conditional or otherwise, in any manner or by any means whatsoever, of tangible  
96 personal property for valuable consideration and the rendering, furnishing or  
97 selling for a valuable consideration any of the substances, things and services  
98 herein designated and defined as taxable under the terms of sections 144.010 to  
99 144.525;

100        ~~[(13)]~~ **(14)** "Sale at retail" means any transfer made by any person  
101 engaged in business as defined herein of the ownership of, or title to, tangible  
102 personal property to the purchaser, for use or consumption and not for resale in  
103 any form as tangible personal property, for a valuable consideration; except that,  
104 for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)  
105 purchases of tangible personal property made by duly licensed physicians,  
106 dentists, optometrists and veterinarians and used in the practice of their  
107 professions shall be deemed to be purchases for use or consumption and not for  
108 resale; and (ii) the selling of computer printouts, computer output or microfilm  
109 or microfiche and computer-assisted photo compositions to a purchaser to enable  
110 the purchaser to obtain for his or her own use the desired information contained  
111 in such computer printouts, computer output on microfilm or microfiche and  
112 computer-assisted photo compositions shall be considered as the sale of a service  
113 and not as the sale of tangible personal property. Where necessary to conform to  
114 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term  
115 sale at retail shall be construed to embrace:

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

119        (b) Sales of electricity, electrical current, water and gas, natural or  
120 artificial, to domestic, commercial or industrial consumers;

121        (c) Sales of local and long distance telecommunications service to  
122 telecommunications subscribers and to others through equipment of  
123 telecommunications subscribers for the transmission of messages and  
124 conversations, and the sale, rental or leasing of all equipment or services  
125 pertaining or incidental thereto;

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

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

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

135 [(14)] (15) "Seller" means a person selling or furnishing tangible personal  
136 property or rendering services, on the receipts from which a tax is imposed  
137 pursuant to section 144.020;

138 [(15)] (16) The noun "tax" means either the tax payable by the purchaser  
139 of a commodity or service subject to tax, or the aggregate amount of taxes due  
140 from the vendor of such commodities or services during the period for which he  
141 or she is required to report his or her collections, as the context may require; and

142 [(16)] (17) "Telecommunications service", for the purpose of this chapter,  
143 the transmission of information by wire, radio, optical cable, coaxial cable,  
144 electronic impulses, or other similar means. As used in this definition,  
145 "information" means knowledge or intelligence represented by any form of  
146 writing, signs, signals, pictures, sounds, or any other  
147 symbols. Telecommunications service does not include the following if such  
148 services are separately stated on the customer's bill or on records of the seller  
149 maintained in the ordinary course of business:

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

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

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

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

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

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

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