

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2382

101ST GENERAL ASSEMBLY

4964H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 144.010, 144.1021, 419.020, and 419.040, RSMo, and section 144.011 as enacted by senate bills nos. 153 & 97, one hundred first general assembly, first regular session, and section 144.011 as enacted by house bill no. 1831, ninety-ninth general assembly, second regular session, and to enact in lieu thereof five new sections relating to lodging establishments.

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

Section A. Sections 144.010, 144.1021, 419.020, and 419.040, RSMo, and section
2 144.011 as enacted by senate bills nos. 153 & 97, one hundred first general assembly, first
3 regular session, and section 144.011 as enacted by house bill no. 1831, ninety-ninth general
4 assembly, second regular session, are repealed and five new sections enacted in lieu thereof,
5 to be known as sections 144.010, 144.011, 144.1021, 419.020, and 419.040, to read as
6 follows:

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

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

7 (2) "Business" includes any activity engaged in by any person, or caused to be
8 engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and
9 the classification of which business is of such character as to be subject to the terms of
10 sections 144.010 to 144.525. A person is "engaging in business" in this state for purposes of

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 sections 144.010 to 144.525 if such person engages in business activities within this state or
12 maintains a place of business in this state under section 144.605. The isolated or occasional
13 sale of tangible personal property, service, substance, or thing, by a person not engaged in
14 such business, does not constitute engaging in business within the meaning of sections
15 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of
16 receipts from the sale of tangible personal property by persons which property is sold in the
17 course of the partial or complete liquidation of a household, farm or nonbusiness enterprise,
18 exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall
19 not be construed to make any sale of property which is exempt from sales tax or use tax on
20 June 1, 1977, subject to that tax thereafter;

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

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

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

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

48 (7) "Motor vehicle leasing company" shall be a company obtaining a permit from the
49 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
50 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
51 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
52 144.070, as hereinafter provided;

53 (8) "Person" includes any individual, firm, copartnership, joint adventure,
54 association, corporation, municipal or private, and whether organized for profit or not,
55 state, county, political subdivision, state department, commission, board, bureau or agency,
56 except the state transportation department, estate, trust, business trust, receiver or trustee
57 appointed by the state or federal court, syndicate, or any other group or combination acting as
58 a unit, and the plural as well as the singular number;

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

62 (10) "Purchaser" means a person who purchases tangible personal property or to
63 whom are rendered services, receipts from which are taxable under sections 144.010 to
64 144.525;

65 (11) "Research or experimentation activities" are the development of an experimental
66 or pilot model, plant process, formula, invention or similar property, and the improvement of
67 existing property of such type. Research or experimentation activities do not include
68 activities such as ordinary testing or inspection of materials or products for quality control,
69 efficiency surveys, advertising promotions or research in connection with literary, historical
70 or similar projects;

71 (12) "Sale" or "sales" includes installment and credit sales, and the exchange of
72 properties as well as the sale thereof for money, every closed transaction constituting a sale,
73 and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any
74 means whatsoever, of tangible personal property for valuable consideration and the rendering,
75 furnishing or selling for a valuable consideration any of the substances, things and services
76 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

77 (13) "Sale at retail" means any transfer made by any person engaged in business as
78 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for
79 use or consumption and not for resale in any form as tangible personal property, for a valuable
80 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax
81 imposed thereby: (i) purchases of tangible personal property made by duly licensed
82 physicians, dentists, optometrists and veterinarians and used in the practice of their
83 professions shall be deemed to be purchases for use or consumption and not for resale; and
84 (ii) the selling of computer printouts, computer output or microfilm or microfiche and

85 computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his
86 or her own use the desired information contained in such computer printouts, computer output
87 on microfilm or microfiche and computer-assisted photo compositions shall be considered as
88 the sale of a service and not as the sale of tangible personal property. Where necessary to
89 conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
90 sale at retail shall be construed to embrace:

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

94 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to
95 domestic, commercial or industrial consumers, **except as provided in subdivision (12) of**
96 **subsection 1 of section 144.011;**

97 (c) Sales of local and long distance telecommunications service to
98 telecommunications subscribers and to others through equipment of telecommunications
99 subscribers for the transmission of messages and conversations, and the sale, rental or leasing
100 of all equipment or services pertaining or incidental thereto;

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

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

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

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

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

115 (16) "Telecommunications service", for the purpose of this chapter, the transmission
116 of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other
117 similar means. As used in this definition, "information" means knowledge or intelligence
118 represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.
119 Telecommunications service does not include the following if such services are separately
120 stated on the customer's bill or on records of the seller maintained in the ordinary course of
121 business:

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

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

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

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

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

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

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

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

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

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

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

15 (5) The transfer of tangible personal property to a partnership solely in exchange for a
16 partnership interest therein;

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

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

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

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

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

33 (11) The purchase by persons operating hotels, motels or other transient
34 accommodation establishments, of items of a nonreusable nature which are furnished to
35 the guests in the guests' rooms of such establishments and such items are included in the
36 charge made for such accommodations. Such items shall include, but not be limited to, soap,
37 shampoo, tissue and other toiletries and food or confectionery items offered to the guests
38 without charge;

39 (12) **The purchase by persons operating hotels, motels, or other transient**
40 **accommodation establishments of electricity, electrical current, water, and gas, whether**
41 **natural or artificial, which are used to heat, cool, or provide water or power to the**
42 **guests' accommodations of such establishments, including sleeping rooms, meeting and**
43 **banquet rooms, and any other customer space rented by guests, and which are included**
44 **in the charge made for such accommodations. Any person required to remit sales tax on**
45 **such purchases prior to August 28, 2022, shall be entitled to a refund on such taxes**
46 **remitted;**

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

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

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

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

59 [~~13~~] (14) Charges for initiation fees or dues to:

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

63 (b) Posts or organizations of past or present members of the Armed Forces of the
 64 United States or an auxiliary unit or society of, or a trust or foundation for, any such post or
 65 organization substantially all of the members of which are past or present members of the
 66 Armed Forces of the United States or who are cadets, spouses, widows, or widowers of past
 67 or present members of the Armed Forces of the United States, no part of the net earnings of
 68 which inures to the benefit of any private shareholder or individual; or

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

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

2 ~~[144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600~~
 3 ~~to 144.748, and the taxes imposed thereby, the definition of "retail sale" or~~
 4 ~~"sale at retail" shall not be construed to include any of the following:~~

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

8 ~~(2) The transfer of tangible personal property incident to the~~
 9 ~~liquidation or cessation of a taxpayer's trade or business, conducted in~~
 10 ~~proprietorship, partnership or corporate form, except to the extent any transfer~~
 11 ~~is made in the ordinary course of the taxpayer's trade or business;~~

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

14 ~~(4) The transfer of tangible personal property to a corporation by a~~
 15 ~~shareholder as a contribution to the capital of the transferee corporation;~~

16 ~~(5) The transfer of tangible personal property to a partnership solely in~~
 17 ~~exchange for a partnership interest therein;~~

18 ~~(6) The transfer of tangible personal property by a partner as a~~
 19 ~~contribution to the capital of the transferee partnership;~~

20 ~~(7) The transfer of tangible personal property by a corporation to one~~
 21 ~~or more of its shareholders as a dividend, return of capital, distribution in the~~
 22 ~~partial or complete liquidation of the corporation or distribution in redemption~~
 23 ~~of the shareholder's interest therein;~~

24 ~~(8) The transfer of tangible personal property by a partnership to one~~
 25 ~~or more of its partners as a current distribution, return of capital or distribution~~
 26 ~~in the partial or complete liquidation of the partnership or of the partner's~~
 interest therein;

27 ~~(9) The transfer of reusable containers used in connection with the sale~~
28 ~~of tangible personal property contained therein for which a deposit is required~~
29 ~~and refunded on return;~~

30 ~~(10) The purchase by persons operating eating or food service~~
31 ~~establishments, of items of a nonreusable nature which are furnished to the~~
32 ~~customers of such establishments with or in conjunction with the retail sales of~~
33 ~~their food or beverage. Such items shall include, but not be limited to,~~
34 ~~wrapping or packaging materials and nonreusable paper, wood, plastic and~~
35 ~~aluminum articles such as containers, trays, napkins, dishes, silverware, cups,~~
36 ~~bags, boxes, straws, sticks and toothpicks;~~

37 ~~(11) The purchase by persons operating hotels, motels or other~~
38 ~~transient accommodation establishments, of items of a nonreusable nature~~
39 ~~which are furnished to the guests in the guests' rooms of such establishments~~
40 ~~and such items are included in the charge made for such accommodations.~~
41 ~~Such items shall include, but not be limited to, soap, shampoo, tissue and other~~
42 ~~toiletries and food or confectionery items offered to the guests without charge;~~

43 ~~(12) The transfer of a manufactured home other than:~~

44 ~~(a) A transfer which involves the delivery of the document known as~~
45 ~~the "Manufacturer's Statement of Origin" to a person other than a~~
46 ~~manufactured home dealer, as defined in section 700.010, for purposes of~~
47 ~~allowing such person to obtain a title to the manufactured home from the~~
48 ~~department of revenue of this state or the appropriate agency or officer of any~~
49 ~~other state;~~

50 ~~(b) A transfer which involves the delivery of a "Repossessed Title" to~~
51 ~~a resident of this state if the tax imposed by sections 144.010 to 144.525 was~~
52 ~~not paid on the transfer of the manufactured home described in paragraph (a)~~
53 ~~of this subdivision;~~

54 ~~(c) The first transfer which occurs after December 31, 1985, if the tax~~
55 ~~imposed by sections 144.010 to 144.525 was not paid on any transfer of the~~
56 ~~same manufactured home which occurred before December 31, 1985; or~~

57 ~~(13) Charges for initiation fees or dues to:~~

58 ~~(a) Fraternal beneficiaries societies, or domestic fraternal societies,~~
59 ~~orders or associations operating under the lodge system a substantial part of~~
60 ~~the activities of which are devoted to religious, charitable, scientific, literary,~~
61 ~~educational or fraternal purposes;~~

62 ~~(b) Posts or organizations of past or present members of the Armed~~
63 ~~Forces of the United States or an auxiliary unit or society of, or a trust or~~
64 ~~foundation for, any such post or organization substantially all of the members~~
65 ~~of which are past or present members of the Armed Forces of the United States~~
66 ~~or who are cadets, spouses, widows, or widowers of past or present members~~
67 ~~of the Armed Forces of the United States, no part of the net earnings of which~~
68 ~~inures to the benefit of any private shareholder or individual; or~~

69 ~~(c) Nonprofit organizations exempt from taxation under Section 501-~~
70 ~~(e)(7) of the Internal Revenue Code of 1986, as amended.~~

71 ~~2. The assumption of liabilities of the transferor by the transferee~~
72 ~~incident to any of the transactions enumerated in the above subdivisions (1) to~~
73 ~~(8) of subsection 1 of this section shall not disqualify the transfer from the~~
74 ~~exclusion described in this section, where such liability assumption is related~~

75 ~~to the property transferred and where the assumption does not have as its~~
 76 ~~principal purpose the avoidance of Missouri sales or use tax.]~~

144.1021. The enactment of sections 143.177, 144.608, 144.637, 144.638, and
 2 144.752 of this act; the repeal and reenactment of sections 143.011, ~~[144.011,]~~ 144.014,
 3 144.020, 144.049, 144.054, 144.140, 144.526, and 144.605 of this act; and the repeal of
 4 sections 144.710, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, and 144.1015 of this
 5 act shall become effective January 1, 2023.

419.020. No lodging establishment in this state~~[-which shall]~~ **that** constantly ~~[have]~~
 2 **has** a safe~~[-]~~ **or safe deposit boxes** in good order, ~~[and]~~ suitable for the safe custody of
 3 money, jewelry ~~[and]~~ , articles of gold and silver manufacture, and ~~[of]~~ the like, **behind the**
 4 **guest registration desk** and ~~[which shall keep]~~ **that keeps** a copy of sections 419.020 and
 5 419.030 printed in large plain English type~~[-]~~ constantly and conspicuously suspended at the
 6 guest registration desk and in every guest room of the lodging establishment~~[-]~~ shall be liable
 7 for the loss of any such articles aforesaid, suffered by any guest, unless such guest ~~[shall~~
 8 ~~have]~~ first offered to deliver such property lost by him or her to such lodging establishment~~[-]~~
 9 for custody in such safe~~[-]~~ **or safe deposit boxes** and such lodging establishment ~~[shall have]~~
 10 refused or omitted to take it and deposit it in such safe **or safe deposit boxes** for its custody
 11 and **when deposited in a safe**, to give such guest a receipt therefor.

419.040. It shall be the duty of every lodging establishment in this state to post a
 2 written or printed copy of the rates charged for each guest room~~[-]~~ in each guest room ~~[and;~~
 3 ~~provided, that where]~~ . **If** a different rate is charged for different rooms in such lodging
 4 establishment the rate posted in each room shall be the rate ~~[which shall apply]~~ **that applies**
 5 to such room~~[-]~~ ~~and provided further, that]~~ . This ~~[law]~~ **section** shall not apply to lodging
 6 establishments ~~[which]~~ **that publish current rates electronically on a public internet**
 7 **platform or that** do not have more than ten guests on an average each day.

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