

FIRST REGULAR SESSION

# SENATE BILL NO. 472

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Read 1st time February 23, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1999S.011

## AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales taxes associated with honey bees.

*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Section A. Section 144.010, RSMo, is repealed and one new section  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 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  
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;

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

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

53 (7) "Motor vehicle leasing company" shall be a company obtaining a  
54 permit from the director of revenue to operate as a motor vehicle leasing  
55 company. Not all persons renting or leasing trailers or motor vehicles need to  
56 obtain such a permit; however, no person failing to obtain such a permit may

57 avail itself of the optional tax provisions of subsection 5 of section 144.070, as  
58 hereinafter provided;

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

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

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

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

80 (12) "Sale" or "sales" includes installment and credit sales, and the  
81 exchange of properties as well as the sale thereof for money, every closed  
82 transaction constituting a sale, and means any transfer, exchange or barter,  
83 conditional or otherwise, in any manner or by any means whatsoever, of tangible  
84 personal property for valuable consideration and the rendering, furnishing or  
85 selling for a valuable consideration any of the substances, things and services  
86 herein designated and defined as taxable under the terms of sections 144.010 to  
87 144.525;

88 (13) "Sale at retail" means any transfer made by any person engaged in  
89 business as defined herein of the ownership of, or title to, tangible personal  
90 property to the purchaser, for use or consumption and not for resale in any form  
91 as tangible personal property, for a valuable consideration; except that, for the  
92 purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)

93 purchases of tangible personal property made by duly licensed physicians,  
94 dentists, optometrists and veterinarians and used in the practice of their  
95 professions shall be deemed to be purchases for use or consumption and not for  
96 resale; and (ii) the selling of computer printouts, computer output or microfilm  
97 or microfiche and computer-assisted photo compositions to a purchaser to enable  
98 the purchaser to obtain for his or her own use the desired information contained  
99 in such computer printouts, computer output on microfilm or microfiche and  
100 computer-assisted photo compositions shall be considered as the sale of a service  
101 and not as the sale of tangible personal property. Where necessary to conform to  
102 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term  
103 sale at retail shall be construed to embrace:

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

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

109 (c) Sales of local and long distance telecommunications service to  
110 telecommunications subscribers and to others through equipment of  
111 telecommunications subscribers for the transmission of messages and  
112 conversations, and the sale, rental or leasing of all equipment or services  
113 pertaining or incidental thereto;

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

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

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

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

126 (15) The noun "tax" means either the tax payable by the purchaser of a  
127 commodity or service subject to tax, or the aggregate amount of taxes due from  
128 the vendor of such commodities or services during the period for which he or she

129 is required to report his or her collections, as the context may require; and

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

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

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

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

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

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

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

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