

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 30

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS NODLER AND RIDGEWAY.

Pre-filed December 1, 2006, and ordered printed.

Read 2nd time January 16, 2007, and referred to the Committee on Ways and Means.

Reported from the Committee February 15, 2007, with recommendation that the bill do pass.

Taken up for Perfection February 26, 2007. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0246S.01P

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## AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales tax exemption for common motor carriers.

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

Section A. Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless

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

17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or  
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,  
19 power, steam, electrical current or in furnishing water to be sold ultimately at  
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs  
21 which are to be sold ultimately in processed form at retail; or seed, limestone or  
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when  
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold  
24 ultimately in processed form at retail; economic poisons registered pursuant to  
25 the provisions of the Missouri pesticide registration law (sections 281.220 to  
26 281.310, RSMo) which are to be used in connection with the growth or production  
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop  
28 of which when harvested will be sold at retail or will be converted into foodstuffs  
29 which are to be sold ultimately in processed form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used  
31 in manufacturing, processing, compounding, mining, producing or fabricating  
32 become a component part or ingredient of the new personal property resulting  
33 from such manufacturing, processing, compounding, mining, producing or  
34 fabricating and which new personal property is intended to be sold ultimately for  
35 final use or consumption; and materials, including without limitation, gases and  
36 manufactured goods, including without limitation, slagging materials and  
37 firebrick, which are ultimately consumed in the manufacturing process by  
38 blending, reacting or interacting with or by becoming, in whole or in part,  
39 component parts or ingredients of steel products intended to be sold ultimately  
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly  
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,  
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of  
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and  
46 supplies solely required for the installation or construction of such replacement  
47 machinery, equipment, and parts, used directly in manufacturing, mining,  
48 fabricating or producing a product which is intended to be sold ultimately for  
49 final use or consumption; and machinery and equipment, and the materials and  
50 supplies required solely for the operation, installation or construction of such  
51 machinery and equipment, purchased and used to establish new, or to replace or  
52 expand existing, material recovery processing plants in this state. For the

53 purposes of this subdivision, a "material recovery processing plant" means a  
54 facility that has as its primary purpose the recovery of materials into a useable  
55 product or a different form which is used in producing a new product and shall  
56 include a facility or equipment which are used exclusively for the collection of  
57 recovered materials for delivery to a material recovery processing plant but shall  
58 not include motor vehicles used on highways. For purposes of this section, the  
59 terms "motor vehicle" and "highway" shall have the same meaning pursuant to  
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a  
61 manufacturing process or the use of a product previously recovered. The material  
62 recovery processing plant shall qualify under the provisions of this section  
63 regardless of ownership of the material being recovered;

64 (5) Machinery and equipment, and parts and the materials and supplies  
65 solely required for the installation or construction of such machinery and  
66 equipment, purchased and used to establish new or to expand existing  
67 manufacturing, mining or fabricating plants in the state if such machinery and  
68 equipment is used directly in manufacturing, mining or fabricating a product  
69 which is intended to be sold ultimately for final use or consumption;

70 (6) Tangible personal property which is used exclusively in the  
71 manufacturing, processing, modification or assembling of products sold to the  
72 United States government or to any agency of the United States government;

73 (7) Animals or poultry used for breeding or feeding purposes;

74 (8) Newsprint, ink, computers, photosensitive paper and film, toner,  
75 printing plates and other machinery, equipment, replacement parts and supplies  
76 used in producing newspapers published for dissemination of news to the general  
77 public;

78 (9) The rentals of films, records or any type of sound or picture  
79 transcriptions for public commercial display;

80 (10) Pumping machinery and equipment used to propel products delivered  
81 by pipelines engaged as common carriers;

82 (11) Railroad rolling stock for use in transporting persons or property in  
83 interstate commerce and motor vehicles licensed for a gross weight of twenty-four  
84 thousand pounds or more or trailers used by common carriers, as defined in  
85 section 390.020, RSMo, [solely] in the transportation of persons or property [in  
86 interstate commerce];

87 (12) Electrical energy used in the actual primary manufacture, processing,  
88 compounding, mining or producing of a product, or electrical energy used in the

89 actual secondary processing or fabricating of the product, or a material recovery  
90 processing plant as defined in subdivision (4) of this subsection, in facilities  
91 owned or leased by the taxpayer, if the total cost of electrical energy so used  
92 exceeds ten percent of the total cost of production, either primary or secondary,  
93 exclusive of the cost of electrical energy so used or if the raw materials used in  
94 such processing contain at least twenty-five percent recovered materials as  
95 defined in section 260.200, RSMo. For purposes of this subdivision, "processing"  
96 means any mode of treatment, act or series of acts performed upon materials to  
97 transform and reduce them to a different state or thing, including treatment  
98 necessary to maintain or preserve such processing by the producer at the  
99 production facility;

100 (13) Anodes which are used or consumed in manufacturing, processing,  
101 compounding, mining, producing or fabricating and which have a useful life of  
102 less than one year;

103 (14) Machinery, equipment, appliances and devices purchased or leased  
104 and used solely for the purpose of preventing, abating or monitoring air pollution,  
105 and materials and supplies solely required for the installation, construction or  
106 reconstruction of such machinery, equipment, appliances and devices, and so  
107 certified as such by the director of the department of natural resources, except  
108 that any action by the director pursuant to this subdivision may be appealed to  
109 the air conservation commission which may uphold or reverse such action;

110 (15) Machinery, equipment, appliances and devices purchased or leased  
111 and used solely for the purpose of preventing, abating or monitoring water  
112 pollution, and materials and supplies solely required for the installation,  
113 construction or reconstruction of such machinery, equipment, appliances and  
114 devices, and so certified as such by the director of the department of natural  
115 resources, except that any action by the director pursuant to this subdivision may  
116 be appealed to the Missouri clean water commission which may uphold or reverse  
117 such action;

118 (16) Tangible personal property purchased by a rural water district;

119 (17) All amounts paid or charged for admission or participation or other  
120 fees paid by or other charges to individuals in or for any place of amusement,  
121 entertainment or recreation, games or athletic events, including museums, fairs,  
122 zoos and planetariums, owned or operated by a municipality or other political  
123 subdivision where all the proceeds derived therefrom benefit the municipality or  
124 other political subdivision and do not inure to any private person, firm, or

125 corporation;

126 (18) All sales of insulin and prosthetic or orthopedic devices as defined on  
127 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the  
128 Social Security Act of 1965, including the items specified in Section 1862(a)(12)  
129 of that act, and also specifically including hearing aids and hearing aid supplies  
130 and all sales of drugs which may be legally dispensed by a licensed pharmacist  
131 only upon a lawful prescription of a practitioner licensed to administer those  
132 items, including samples and materials used to manufacture samples which may  
133 be dispensed by a practitioner authorized to dispense such samples and all sales  
134 of medical oxygen, home respiratory equipment and accessories, hospital beds and  
135 accessories and ambulatory aids, all sales of manual and powered wheelchairs,  
136 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by  
137 or on behalf of a person with one or more physical or mental disabilities to enable  
138 them to function more independently, all sales of scooters, reading machines,  
139 electronic print enlargers and magnifiers, electronic alternative and augmentative  
140 communication devices, and items used solely to modify motor vehicles to permit  
141 the use of such motor vehicles by individuals with disabilities or sales of  
142 over-the-counter or nonprescription drugs to individuals with disabilities;

143 (19) All sales made by or to religious and charitable organizations and  
144 institutions in their religious, charitable or educational functions and activities  
145 and all sales made by or to all elementary and secondary schools operated at  
146 public expense in their educational functions and activities;

147 (20) All sales of aircraft to common carriers for storage or for use in  
148 interstate commerce and all sales made by or to not-for-profit civic, social, service  
149 or fraternal organizations, including fraternal organizations which have been  
150 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the  
151 1986 Internal Revenue Code, as amended, in their civic or charitable functions  
152 and activities and all sales made to eleemosynary and penal institutions and  
153 industries of the state, and all sales made to any private not-for-profit institution  
154 of higher education not otherwise excluded pursuant to subdivision (19) of this  
155 subsection or any institution of higher education supported by public funds, and  
156 all sales made to a state relief agency in the exercise of relief functions and  
157 activities;

158 (21) All ticket sales made by benevolent, scientific and educational  
159 associations which are formed to foster, encourage, and promote progress and  
160 improvement in the science of agriculture and in the raising and breeding of

161 animals, and by nonprofit summer theater organizations if such organizations are  
162 exempt from federal tax pursuant to the provisions of the Internal Revenue Code  
163 and all admission charges and entry fees to the Missouri state fair or any fair  
164 conducted by a county agricultural and mechanical society organized and  
165 operated pursuant to sections 262.290 to 262.530, RSMo;

166 (22) All sales made to any private not-for-profit elementary or secondary  
167 school, all sales of feed additives, medications or vaccines administered to  
168 livestock or poultry in the production of food or fiber, all sales of pesticides used  
169 in the production of crops, livestock or poultry for food or fiber, all sales of  
170 bedding used in the production of livestock or poultry for food or fiber, all sales  
171 of propane or natural gas, electricity or diesel fuel used exclusively for drying  
172 agricultural crops, natural gas used in the primary manufacture or processing of  
173 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and  
174 electricity used by an eligible new generation cooperative or an eligible new  
175 generation processing entity as defined in section 348.432, RSMo, and all sales  
176 of farm machinery and equipment, other than airplanes, motor vehicles and  
177 trailers. As used in this subdivision, the term "feed additives" means tangible  
178 personal property which, when mixed with feed for livestock or poultry, is to be  
179 used in the feeding of livestock or poultry. As used in this subdivision, the term  
180 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and  
181 other assorted pesticide carriers used to improve or enhance the effect of a  
182 pesticide and the foam used to mark the application of pesticides and herbicides  
183 for the production of crops, livestock or poultry. As used in this subdivision, the  
184 term "farm machinery and equipment" means new or used farm tractors and such  
185 other new or used farm machinery and equipment and repair or replacement  
186 parts thereon, and supplies and lubricants used exclusively, solely, and directly  
187 for producing crops, raising and feeding livestock, fish, poultry, pheasants,  
188 chukar, quail, or for producing milk for ultimate sale at retail, including field  
189 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which  
190 is:

191 (a) Used exclusively for agricultural purposes;

192 (b) Used on land owned or leased for the purpose of producing farm  
193 products; and

194 (c) Used directly in producing farm products to be sold ultimately in  
195 processed form or otherwise at retail or in producing farm products to be fed to  
196 livestock or poultry to be sold ultimately in processed form at retail;

197 (23) Except as otherwise provided in section 144.032, all sales of metered  
198 water service, electricity, electrical current, natural, artificial or propane gas,  
199 wood, coal or home heating oil for domestic use and in any city not within a  
200 county, all sales of metered or unmetered water service for domestic use;

201 (a) "Domestic use" means that portion of metered water service,  
202 electricity, electrical current, natural, artificial or propane gas, wood, coal or  
203 home heating oil, and in any city not within a county, metered or unmetered  
204 water service, which an individual occupant of a residential premises uses for  
205 nonbusiness, noncommercial or nonindustrial purposes. Utility service through  
206 a single or master meter for residential apartments or condominiums, including  
207 service for common areas and facilities and vacant units, shall be deemed to be  
208 for domestic use. Each seller shall establish and maintain a system whereby  
209 individual purchases are determined as exempt or nonexempt;

210 (b) Regulated utility sellers shall determine whether individual purchases  
211 are exempt or nonexempt based upon the seller's utility service rate  
212 classifications as contained in tariffs on file with and approved by the Missouri  
213 public service commission. Sales and purchases made pursuant to the rate  
214 classification "residential" and sales to and purchases made by or on behalf of the  
215 occupants of residential apartments or condominiums through a single or master  
216 meter, including service for common areas and facilities and vacant units, shall  
217 be considered as sales made for domestic use and such sales shall be exempt from  
218 sales tax. Sellers shall charge sales tax upon the entire amount of purchases  
219 classified as nondomestic use. The seller's utility service rate classification and  
220 the provision of service thereunder shall be conclusive as to whether or not the  
221 utility must charge sales tax;

222 (c) Each person making domestic use purchases of services or property  
223 and who uses any portion of the services or property so purchased for a  
224 nondomestic use shall, by the fifteenth day of the fourth month following the year  
225 of purchase, and without assessment, notice or demand, file a return and pay  
226 sales tax on that portion of nondomestic purchases. Each person making  
227 nondomestic purchases of services or property and who uses any portion of the  
228 services or property so purchased for domestic use, and each person making  
229 domestic purchases on behalf of occupants of residential apartments or  
230 condominiums through a single or master meter, including service for common  
231 areas and facilities and vacant units, under a nonresidential utility service rate  
232 classification may, between the first day of the first month and the fifteenth day

233 of the fourth month following the year of purchase, apply for credit or refund to  
234 the director of revenue and the director shall give credit or make refund for taxes  
235 paid on the domestic use portion of the purchase. The person making such  
236 purchases on behalf of occupants of residential apartments or condominiums shall  
237 have standing to apply to the director of revenue for such credit or refund;

238 (24) All sales of handicraft items made by the seller or the seller's spouse  
239 if the seller or the seller's spouse is at least sixty-five years of age, and if the total  
240 gross proceeds from such sales do not constitute a majority of the annual gross  
241 income of the seller;

242 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,  
243 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United  
244 States Code. The director of revenue shall promulgate rules pursuant to chapter  
245 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

246 (26) Sales of fuel consumed or used in the operation of ships, barges, or  
247 waterborne vessels which are used primarily in or for the transportation of  
248 property or cargo, or the conveyance of persons for hire, on navigable rivers  
249 bordering on or located in part in this state, if such fuel is delivered by the seller  
250 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such  
251 river;

252 (27) All sales made to an interstate compact agency created pursuant to  
253 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the  
254 exercise of the functions and activities of such agency as provided pursuant to the  
255 compact;

256 (28) Computers, computer software and computer security systems  
257 purchased for use by architectural or engineering firms headquartered in this  
258 state. For the purposes of this subdivision, "headquartered in this state" means  
259 the office for the administrative management of at least four integrated facilities  
260 operated by the taxpayer is located in the state of Missouri;

261 (29) All livestock sales when either the seller is engaged in the growing,  
262 producing or feeding of such livestock, or the seller is engaged in the business of  
263 buying and selling, bartering or leasing of such livestock;

264 (30) All sales of barges which are to be used primarily in the  
265 transportation of property or cargo on interstate waterways;

266 (31) Electrical energy or gas, whether natural, artificial or propane, water,  
267 or other utilities which are ultimately consumed in connection with the  
268 manufacturing of cellular glass products or in any material recovery processing



269 plant as defined in subdivision (4) of subsection 2 of this section;

270 (32) Notwithstanding other provisions of law to the contrary, all sales of  
271 pesticides or herbicides used in the production of crops, aquaculture, livestock or  
272 poultry;

273 (33) Tangible personal property purchased for use or consumption directly  
274 or exclusively in the research and development of prescription pharmaceuticals  
275 consumed by humans or animals;

276 (34) All sales of grain bins for storage of grain for resale;

277 (35) All sales of feed which are developed for and used in the feeding of  
278 pets owned by a commercial breeder when such sales are made to a commercial  
279 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections  
280 273.325 to 273.357, RSMo;

281 (36) All purchases by a contractor on behalf of an entity located in another  
282 state, provided that the entity is authorized to issue a certificate of exemption for  
283 purchases to a contractor under the provisions of that state's laws. For purposes  
284 of this subdivision, the term "certificate of exemption" shall mean any document  
285 evidencing that the entity is exempt from sales and use taxes on purchases  
286 pursuant to the laws of the state in which the entity is located. Any contractor  
287 making purchases on behalf of such entity shall maintain a copy of the entity's  
288 exemption certificate as evidence of the exemption. If the exemption certificate  
289 issued by the exempt entity to the contractor is later determined by the director  
290 of revenue to be invalid for any reason and the contractor has accepted the  
291 certificate in good faith, neither the contractor or the exempt entity shall be liable  
292 for the payment of any taxes, interest and penalty due as the result of use of the  
293 invalid exemption certificate. Materials shall be exempt from all state and local  
294 sales and use taxes when purchased by a contractor for the purpose of fabricating  
295 tangible personal property which is used in fulfilling a contract for the purpose  
296 of constructing, repairing or remodeling facilities for the following:

297 (a) An exempt entity located in this state, if the entity is one of those  
298 entities able to issue project exemption certificates in accordance with the  
299 provisions of section 144.062; or

300 (b) An exempt entity located outside the state if the exempt entity is  
301 authorized to issue an exemption certificate to contractors in accordance with the  
302 provisions of that state's law and the applicable provisions of this section;

303 (37) Tangible personal property purchased for use or consumption directly  
304 or exclusively in research or experimentation activities performed by life science

305 companies and so certified as such by the director of the department of economic  
306 development or the director's designees; except that, the total amount of  
307 exemptions certified pursuant to this section shall not exceed one million three  
308 hundred thousand dollars in state and local taxes per fiscal year. For purposes  
309 of this subdivision, the term "life science companies" means companies whose  
310 primary research activities are in agriculture, pharmaceuticals, biomedical or food  
311 ingredients, and whose North American Industry Classification System (NAICS)  
312 Codes fall under industry 541710 (biotech research or development laboratories),  
313 621511 (medical laboratories) or 541940 (veterinary services). The exemption  
314 provided by this subdivision shall expire on June 30, 2003;

315 (38) All sales or other transfers of tangible personal property to a lessor  
316 who leases the property under a lease of one year or longer executed or in effect  
317 at the time of the sale or other transfer to an interstate compact agency created  
318 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,  
319 RSMo; and

320 (39) Sales of tickets to any collegiate athletic championship event that is  
321 held in a facility owned or operated by a governmental authority or commission,  
322 a quasi-governmental agency, a state university or college or by the state or any  
323 political subdivision thereof, including a municipality, and that is played on a  
324 neutral site and may reasonably be played at a site located outside the state of  
325 Missouri. For purposes of this subdivision, "neutral site" means any site that is  
326 not located on the campus of a conference member institution participating in the  
327 event.

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