

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 145
AN ACT

To repeal sections 71.610, 92.045, and 144.010, RSMo, and to enact in lieu thereof three new sections relating to the licensure of certain businesses.

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

Section A. Sections 71.610, 92.045, and 144.010, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 71.610, 92.045, and 144.010, to read as follows:

71.610. 1. No municipal corporation in this state shall have the power to impose a license tax upon any business, avocation, pursuit or calling, unless such business, avocation, pursuit or calling is specially named as taxable in the charter of such municipal corporation, or unless such power be conferred by statute.

2. (1) Notwithstanding any provision of law to the contrary, no municipal corporation shall impose a license tax upon:

(a) Any enterprise for which the total amount of gross receipts from sales is ten thousand dollars or less in any calendar year; or

(b) Any enterprise owned by a person aged eighteen years or younger.

(2) The provisions of paragraph (a) of subdivision (1) of this subsection shall not apply to any city with more than four hundred thousand inhabitants and located in more than one county.

92.045. 1. (1) Any constitutional charter city in this state which now has or may hereafter acquire a

3 population in excess of three hundred fifty thousand
4 inhabitants, according to the last federal decennial census,
5 is hereby authorized, for city and local purposes, to
6 license, tax, and regulate the occupation of merchants,
7 manufacturers, and all businesses, avocations, pursuits, and
8 callings that are not exempt from the payment of licenses by
9 law and may, by ordinance, base such licenses on gross
10 receipts, gross profits or net profits, per capita, flat
11 fee, graduated scale based on gross or net receipts or
12 sales, or any other method or measurement of tax or any
13 combination thereof derived or allocable to the carrying on
14 or conducting of any business, avocation, pursuits or
15 callings or activities carried on in such cities.

16 (2) Notwithstanding any provision of law to the
17 contrary, no constitutional charter city in this state,
18 other than a city with more than four hundred thousand
19 inhabitants and located in more than one county, may
20 license, tax, or regulate any enterprise owned by a person
21 aged eighteen years or younger and for which the total
22 amount of gross receipts from sales is ten thousand dollars
23 or less in any calendar year.

24 (3) Notwithstanding any provision of law to the
25 contrary, no constitutional charter city in this state may
26 license, tax, or regulate any enterprise owned by a person
27 aged eighteen years or younger.

28 2. The local legislative body may grant by ordinance
29 to its administering tax official the power to adopt
30 regulations and rules relating to any matters pertaining to
31 the administration and enforcement of any ordinances enacted
32 in accordance with the authority heretofore given. Copies
33 of such regulations and rules shall be kept in the office of
34 such tax official designated in such ordinance and shall be

35 open to inspection by the public. Said regulations or rules
36 may be changed or amended from time to time.

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 ten thousand dollars in any calendar year. The provisions
29 of this subdivision shall not be construed to make any sale
30 of property which is exempt from sales tax or use tax on
31 June 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 For the purposes of sections 144.010 to 144.525 the total
52 amount of the sale price above mentioned shall be deemed to
53 be the amount received. It shall also include the lease or
54 rental consideration where the right to continuous
55 possession or use of any article of tangible personal
56 property is granted under a lease or contract and such
57 transfer of possession would be taxable if outright sale
58 were made and, in such cases, the same shall be taxable as
59 if outright sale were made and considered as a sale of such
60 article, and the tax shall be computed and paid by the
61 lessee upon the rentals paid. The term gross receipts shall
62 not include usual and customary delivery charges that are
63 stated separately from the sale price;

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

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

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

80 (8) "Person" includes any individual, firm,
81 copartnership, joint adventure, association, corporation,
82 municipal or private, and whether organized for profit or
83 not, state, county, political subdivision, state department,
84 commission, board, bureau or agency, except the state
85 transportation department, estate, trust, business trust,
86 receiver or trustee appointed by the state or federal court,
87 syndicate, or any other group or combination acting as a
88 unit, and the plural as well as the singular number;

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

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

97 (11) "Research or experimentation activities" are the
98 development of an experimental or pilot model, plant
99 process, formula, invention or similar property, and the
100 improvement of existing property of such type. Research or
101 experimentation activities do not include activities such as
102 ordinary testing or inspection of materials or products for
103 quality control, efficiency surveys, advertising promotions
104 or research in connection with literary, historical or
105 similar projects;

106 (12) "Sale" or "sales" includes installment and credit
107 sales, and the exchange of properties as well as the sale
108 thereof for money, every closed transaction constituting a
109 sale, and means any transfer, exchange or barter,
110 conditional or otherwise, in any manner or by any means
111 whatsoever, of tangible personal property for valuable
112 consideration and the rendering, furnishing or selling for a
113 valuable consideration any of the substances, things and
114 services herein designated and defined as taxable under the
115 terms of sections 144.010 to 144.525;

116 (13) "Sale at retail" means any transfer made by any
117 person engaged in business as defined herein of the
118 ownership of, or title to, tangible personal property to the
119 purchaser, for use or consumption and not for resale in any
120 form as tangible personal property, for a valuable
121 consideration; except that, for the purposes of sections
122 144.010 to 144.525 and the tax imposed thereby: (i)
123 purchases of tangible personal property made by duly
124 licensed physicians, dentists, optometrists and
125 veterinarians and used in the practice of their professions
126 shall be deemed to be purchases for use or consumption and
127 not for resale; and (ii) the selling of computer printouts,
128 computer output or microfilm or microfiche and computer-
129 assisted photo compositions to a purchaser to enable the

130 purchaser to obtain for his or her own use the desired
131 information contained in such computer printouts, computer
132 output on microfilm or microfiche and computer-assisted
133 photo compositions shall be considered as the sale of a
134 service and not as the sale of tangible personal property.
135 Where necessary to conform to the context of sections
136 144.010 to 144.525 and the tax imposed thereby, the term
137 sale at retail shall be construed to embrace:

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

142 (b) Sales of electricity, electrical current, water
143 and gas, natural or artificial, to domestic, commercial or
144 industrial consumers, except as provided in subdivision (12)
145 of subsection 1 of section 144.011;

146 (c) Sales of local and long distance
147 telecommunications service to telecommunications subscribers
148 and to others through equipment of telecommunications
149 subscribers for the transmission of messages and
150 conversations, and the sale, rental or leasing of all
151 equipment or services pertaining or incidental thereto;

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

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

159 (f) Sales of tickets by every person operating a
160 railroad, sleeping car, dining car, express car, boat,
161 airplane, and such buses and trucks as are licensed by the
162 division of motor carrier and railroad safety of the

163 department of economic development of Missouri, engaged in
164 the transportation of persons for hire;

165 (14) "Seller" means a person selling or furnishing
166 tangible personal property or rendering services, on the
167 receipts from which a tax is imposed pursuant to section
168 144.020;

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

175 (16) "Telecommunications service", for the purpose of
176 this chapter, the transmission of information by wire,
177 radio, optical cable, coaxial cable, electronic impulses, or
178 other similar means. As used in this definition,
179 "information" means knowledge or intelligence represented by
180 any form of writing, signs, signals, pictures, sounds, or
181 any other symbols. Telecommunications service does not
182 include the following if such services are separately stated
183 on the customer's bill or on records of the seller
184 maintained in the ordinary course of business:

185 (a) Access to the internet, access to interactive
186 computer services or electronic publishing services, except
187 the amount paid for the telecommunications service used to
188 provide such access;

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

190 (c) Private mobile radio services which are not two-
191 way commercial mobile radio services such as wireless
192 telephone, personal communications services or enhanced
193 specialized mobile radio services as defined pursuant to
194 federal law; or

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

196 2. For purposes of the taxes imposed under sections
197 144.010 to 144.525, and any other provisions of law
198 pertaining to sales or use taxes which incorporate the
199 provisions of sections 144.010 to 144.525 by reference, the
200 term manufactured homes shall have the same meaning given it
201 in section 700.010.

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