

# SENATE BILL NO. 145

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

0803S.01I

KRISTINA MARTIN, Secretary

## 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 taxation 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,  
2 are repealed and three new sections enacted in lieu thereof, to  
3 be known as sections 71.610, 92.045, and 144.010, to read as  
4 follows:

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

**2. Notwithstanding any provision of law to the  
8 contrary, for the purposes of this section, the term  
9 "business, avocation, pursuit or calling" shall not include  
10 any enterprise for which the total amount of gross receipts  
11 from sales is ten thousand dollars or less in any calendar  
12 year.**

92.045. **1. (1)** Any constitutional charter city in  
2 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

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

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 may**  
18 **license, tax, or regulate any enterprise for which the total**  
19 **amount of gross receipts from sales is ten thousand dollars**  
20 **or less in any calendar year.**

21 2. The local legislative body may grant by ordinance  
22 to its administering tax official the power to adopt  
23 regulations and rules relating to any matters pertaining to  
24 the administration and enforcement of any ordinances enacted  
25 in accordance with the authority heretofore given. Copies  
26 of such regulations and rules shall be kept in the office of  
27 such tax official designated in such ordinance and shall be  
28 open to inspection by the public. Said regulations or rules  
29 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".

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