

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 627

89TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, March 12, 1998, with recommendation that the Senate Committee Substitute do pass.

S2564.11C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 66.300, 92.045, 94.110, 94.270 and 94.360, RSMo 1994, and sections 144.010 and 144.020, RSMo Supp. 1997, relating to taxation, and to enact in lieu thereof nine new sections relating to the same subject.

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

Section A. Sections 66.300, 92.045, 94.110, 94.270 and 94.360, RSMo 1994, and sections 144.010 and 144.020, RSMo Supp. 1997, are repealed and nine new sections enacted in lieu thereof, to be known as sections 66.300, 92.045, 94.110, 94.270, 94.360, 144.010, 144.020, 393.297 and 393.299, to read as follows:

66.300. **1.** The county council or other legislative authority of any first class county having a population of over six hundred thousand inhabitants is hereby authorized to impose a license tax whereby every public utility engaged in the business of supplying or furnishing electricity, electrical power, electrical service, gas, gas service, water, water service, sewer service, telegraph service or exchange telephone service in the part of the county outside incorporated cities shall pay to the county, as a license or occupational tax, an amount not in excess of five percent of the gross receipts derived from such business within the unincorporated areas of the county.

2. Any county imposing a business license tax pursuant to this section upon providers of methane, propane, natural gas or electricity based upon volume of sales or gross receipts must impose by ordinance a corresponding tax upon any person, corporation or other business entity which purchases methane, propane, natural gas or electricity from an entity that is not subject to such county's business license tax, and transports or transmits, or causes to be transported or transmitted, such methane,

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

propane, natural gas or electricity to be transported or transmitted for ultimate use within such county. Any such tax shall be levied based upon the price paid for such methane, propane, natural gas or electricity and shall be at a rate equal to the effective rate of the business license tax imposed upon sellers of methane, propane, natural gas or electricity within such county. Any county imposing a tax pursuant to this section shall be authorized to require any company selling methane, propane, natural gas or electricity within such county, and which transports or transmits, or causes to be transported or transmitted, such methane, propane, natural gas or electricity to the purchaser within the county, to collect the tax from the purchaser. Notwithstanding the foregoing, the purchaser shall be responsible for the payment of any tax imposed by any county as authorized herein. Such tax shall not become effective unless the governing body of the county submits to the voters of the county at any public election allowed pursuant to subsection 1 or subsection 2 of section 115.123, RSMo, a proposal to impose a tax under the provisions of this section.

3. The question shall be submitted to the voters in substantially the following form:

Shall the (county) levy a tax for the purpose of equalizing the obligations of all users of methane, propane, natural gas or electricity of percent which is equal to the obligations of current taxpayers on the purchase price of methane, propane, natural gas or electricity sold by any person, corporation or other business entity for ultimate use in the county not subject to the current business license tax where the proceeds shall be expended for the same or similar purposes as the existing tax?

G Yes

G No

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the first calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body of the county shall have no power to impose the tax authorized by this section unless and until the governing body of the county again submits the question to the qualified voters of the county and such question is approved by a majority of the qualified voters voting on the question.

4. In the event it is determined that the authorization of this section, the ballot language, submission of the issue to the voters, or approval of the issue is void for any reason, the sales of methane, propane, natural gas or electricity to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of chapter 393, RSMo, regulations adopted thereunder, and public service commission orders.

92.045. 1. Any constitutional charter city in this state [which now has or may hereafter acquire a population in excess of three hundred fifty thousand inhabitants, according to the last federal decennial census,] is hereby authorized, for city and local purposes, to license, tax, and regulate the occupation of merchants, manufacturers, and all businesses, avocations, pursuits, and callings that are not exempt from the payment of licenses by law and may, by ordinance, base such licenses on gross receipts, gross profits or net profits, per capita, flat fee, graduated scale based on gross or net receipts or sales, or any other method or measurement of tax or any combination thereof derived or allocable to the carrying on or conducting of any business, avocation, pursuits or callings or activities carried on in such cities.

2. The local legislative body may grant by ordinance to its administering tax official the power to adopt regulations and rules relating to any matters pertaining to the administration and enforcement of any ordinances enacted in accordance with the authority heretofore given. Copies of such regulations and rules shall be kept in the office of such tax official designated in such ordinance and shall be open to inspection by the public. Said regulations or rules may be changed or amended from time to time.

3. Any city imposing business license taxes pursuant to this section or similar taxes adopted pursuant to charter provisions in any constitutional charter city upon providers of methane, propane, natural gas or electricity based upon volume of sales or gross receipts must impose by ordinance a corresponding tax upon any person, corporation or other business entity which purchases methane, propane, natural gas or electricity from an entity that is not subject to such city's business license taxes, and transports or transmits, or causes to be transported or transmitted, such methane, propane, natural gas or electricity to be transported or transmitted for ultimate use within such city. Any such tax shall be levied based upon the gross amount paid, consistent with the formula used to determine payments subject to an existing tax, for such methane, propane, natural gas or electricity and shall be at a rate equal to the effective rate of the business license tax imposed upon sellers of methane, propane, natural gas or electricity within such city. Any city imposing a tax pursuant to this section shall be authorized to require any company selling methane, propane, natural gas or electricity within such city, or which transports or transmits such methane, propane, natural gas or electricity, or causes to be transported or transmitted, to the purchaser within the city, to collect the tax from the purchaser. Notwithstanding the foregoing, the purchaser shall be responsible for the payment of any tax imposed by any city as authorized herein. Such tax shall not become effective unless the governing body of the city submits to the voters of the city at any public election allowed pursuant to subsection 1 or subsection 2 of section 115.123, RSMo, a proposal to impose a tax under the provisions of this section.

4. The question shall be submitted to the voters in substantially the following

form:

Shall the (city) levy a tax for the purpose of equalizing the obligations of all users of methane, propane, natural gas or electricity of percent which is equal to the obligations of current taxpayers on the purchase price of methane, propane, natural gas or electricity sold by any person, corporation or other business entity for ultimate use in the city not subject to the current business license tax where the proceeds shall be expended for the same or similar purposes as the existing tax?

G Yes

G No

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the first calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body of the city shall have no power to impose the tax authorized by this section unless and until the governing body of the city again submits the question to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

5. In the event it is determined that the authorization of this section, the ballot language, submission of the issue to the voters, or approval of the issue is void for any reason, the sales of methane, propane, natural gas or electricity to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of chapter 393, RSMo, regulations adopted thereunder, and public service commission orders.

94.110. **1.** The council shall have power and authority to levy and collect a license tax on wholesale houses, auctioneers, architects, druggists, grocers, banks, brokers, wholesale merchants, merchants of all kinds, confectioners, delivery trucks, ice trucks, transfer trucks, laundry wagons, milk wagons, merchant delivery companies, cigar and tobacco stands, hay scales, wood dealers, coal dealers, lumber dealers, real estate agents, loan companies, abstracters, abstract agencies, loan agents, collection agencies, undertakers, public buildings, office buildings, public halls, public grounds, concerts, photographers in office or upon the streets, canvassers, artists, drummers, patent right dealers, automobile agents and dealers, automobile accessory dealers, insurance companies, insurance agents, taverns, hotels, rooming houses, boardinghouses, health schools, telephone companies, street contractors, paper hanger contractors, painting contractors, plastering contractors, and all subcontractors, flour mills, express company agencies, wagons, buggies, carriages, tanners, barbers, barbershops, hair dressers, hair dressing shops, whether conducted in connection with other business or separate beauty parlors, tailors, florists, nursery stock agents, book binders, monument dealers and agencies, manufacturing agents, shoe cobbler shops, storage warehouses, shoe shining parlors, newspaper offices, job printing plants, ready-to-wear clothing agencies, tailor-made clothing agencies, sewing machine agents, piano and organ dealers and

agents, foreign coffee and tea dealers and agents, and all other vocations whatsoever, and fix the rate of carriage of persons and wagonage, drayage and cartage of property; and to levy and collect a license tax and regulate hawkers, peddlers, pawnbrokers, restaurants, butchers, wholesale butchers, bathhouses and masseurs, lunch stands, lunch counters, lunch wagons, soft drink and ice cream stand and vendors, ice cream parlors, peanut and popcorn stands, and stands of every kind, hucksters, opera houses, moving picture shows, private parks, public lectures, public meetings, baseball parks, outdoor advertising, horse and cattle dealers, stockyards, wagon yards, auto yards, oil stations, wholesale and retail, inspectors, gaugers, mercantile agents, manufacturing and other corporations, or institutions, machine shops, blacksmith shops, foundries, sewer contractors, building contractors, stone contractors, plumbing contractors, brick contractors, cement contractors, sidewalk contractors, bridge contractors, and all subcontractors, street railroad cars, light, power and water companies, gas companies, laundries, laundry agencies, ice plants and ice plant agencies, ice dealers, omnibuses, automobiles, automobile trailers, tractors, carts, drays, milk wagons, laundry wagons, delivery wagons, transfer and job wagons, ice wagons, and all other vehicles, traveling and auction stores, plumbers, pressing establishments, installment houses and agencies, produce and poultry dealers, feather renovators, bakers and bakeries, bakery delivery wagons, and delivery autos, bottling works, dye works, cleaning establishments, sand plants, steam fitters, corn doctors, chiropodists, hackmen, taxicabs, buses, draymen, omnibus drivers, porters, ferries, and to regulate the same, and the landing thereof, within the limits of the city, and all others pursuing like occupations; and to levy and collect a license tax, regulate, restrain, prohibit and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance halls, fortune tellers, pistol galleries, shooting galleries, palmists, private venereal hospitals, museums, menageries, equestrian performances, fluoroscopic views, picture shows, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, bowling alleys, billiard tables, pool and other tables, miniature golf courses, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, amusement parks, and the sales of unclaimed goods by express companies or common carriers, auto wrecking shops, bill posters, junk dealers, porters, carnival and street fairs, circuses and shows, for parade and exhibition, or both, skating rinks, and runners and solicitors for steamboats, cars, stages, taxicabs, hotels, rooming houses, boardinghouses, bathhouses, masseurs, health schools, and all other vocations and business whatsoever, and all others pursuing like occupations.

2. Any city imposing a business license tax pursuant to this section upon providers of methane, propane, natural gas or electricity based upon volume of sales or gross receipts must impose by ordinance a corresponding tax upon any person, corporation or other business entity which purchases methane, propane, natural gas or electricity from an entity that is not subject to such city's business license tax, and

transports or transmits, or causes to be transported or transmitted, such methane, propane, natural gas or electricity to be transported or transmitted for ultimate use within such city. Any such tax shall be levied based upon the price paid for such methane, propane, natural gas or electricity and shall be at a rate equal to the effective rate of the business license tax imposed upon sellers of methane, propane, natural gas or electricity within such city. Any city imposing a tax pursuant to this section shall be authorized to require any company selling methane, propane, natural gas or electricity within such city, and which transports or transmits such methane, propane, natural gas or electricity, or causes to be transported or transmitted, to the purchaser within the city, to collect the tax from the purchaser. Notwithstanding the foregoing, the purchaser shall be responsible for the payment of any tax imposed by any city as authorized herein. Such tax shall not become effective unless the governing body of the city submits to the voters of the city at any public election allowed pursuant to subsection 1 or subsection 2 of section 115.123, RSMo, a proposal to impose a tax under the provisions of this section.

3. The question shall be submitted to the voters in substantially the following form:

Shall the (city) levy a tax for the purpose of equalizing the obligations of all users of methane, propane, natural gas or electricity of percent which is equal to the obligations of current taxpayers on the purchase price of methane, propane, natural gas or electricity sold by any person, corporation or other business entity for ultimate use in the city not subject to the current business license tax where the proceeds shall be expended for the same or similar purposes as the existing tax?

G Yes

G No

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the first calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body of the city shall have no power to impose the tax authorized by this section unless and until the governing body of the city again submits the question to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

4. In the event it is determined that the authorization of this section, the ballot language, submission of the issue to the voters, or approval of the issue is void for any reason, the sales of methane, propane, natural gas or electricity to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of chapter 393, RSMo, regulations adopted thereunder, and public service commission orders.

94.270. **1.** The mayor and board of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards, inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tippling houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Any city imposing a business license tax pursuant to this section upon providers of methane, propane, natural gas or electricity based upon volume of sales or gross receipts must impose by ordinance a corresponding tax upon any person, corporation or other business entity which purchases methane, propane, natural gas or electricity from an entity that is not subject to such city's business license tax, and transports or transmits, or causes to be transported or transmitted, such methane, propane, natural gas or electricity to be transported or transmitted for ultimate use within such city. Any such tax shall be levied based upon the price paid for such methane, propane, natural gas or electricity and shall be at a rate equal to the effective

rate of the business license tax imposed upon sellers of methane, propane, natural gas or electricity within such city. Any city imposing a tax pursuant to this section shall be authorized to require any company selling methane, propane, natural gas or electricity within such city, and which transports or transmits such methane, propane, natural gas or electricity, or causes to be transported or transmitted, to the purchaser within the city, to collect the tax from the purchaser. Notwithstanding the foregoing, the purchaser shall be responsible for the payment of any tax imposed by any city as authorized herein. Such tax shall not become effective unless the governing body of the city submits to the voters of the city at any public election allowed pursuant to subsection 1 or subsection 2 of section 115.123, RSMo, a proposal to impose a tax under the provisions of this section.

3. The question shall be submitted to the voters in substantially the following form:

Shall the (city) levy a tax for the purpose of equalizing the obligations of all users of methane, propane, natural gas or electricity of percent which is equal to the obligations of current taxpayers on the purchase price of methane, propane, natural gas or electricity sold by any person, corporation or other business entity for ultimate use in the city not subject to the current business license tax where the proceeds shall be expended for the same or similar purposes as the existing tax?

G Yes

G No

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the first calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body of the city shall have no power to impose the tax authorized by this section unless and until the governing body of the city again submits the question to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

4. In the event it is determined that the authorization of this section, the ballot language, submission of the issue to the voters, or approval of the issue is void for any reason, the sales of methane, propane, natural gas or electricity to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of chapter 393, RSMo, regulations adopted thereunder, and public service commission orders.

94.360. 1. The council of any incorporated town or city in this state having a special charter and which contains not more than thirty thousand inhabitants may by ordinance levy and collect a license tax on wholesale houses, auctioneers, architects, druggists, grocers, banks, brokers, wholesale merchants, merchants of all kinds, confectioners, delivery trucks, ice trucks,

transfer trucks, laundry wagons, milk wagons, merchant delivery companies, cigar and tobacco stands, hay scales, wood dealers, coal dealers, coal distributors, coal truckers, lumber dealers, real estate agents, loan companies, abstracters, abstract agencies, loan agents, collection agencies, undertakers, public buildings, office buildings, public halls, public grounds, concerts, photographers in office or upon streets, canvassers, artists, drummers, patent right dealers, insurance companies, insurance agents, taverns, hotels, rooming houses, boarding houses, sanitariums, hospitals, health schools, telephone companies, street contractors, paperhanger contractors, painting contractors, plastering contractors, and all subcontractors, flour mills, express company agencies, opticians, wagons, buggies, carriages, tanners, barbers, barbershops, hairdressers, hair dressing shops, whether conducted in connection with other business or separate, beauty parlors, tailors, florists, nursery stock agents, bookbinders, monument dealers, and agencies, manufacturing agents, shoe cobbler shops, storage warehouses, shoe shining parlors, job printing plants, outdoor advertising, ready-to-wear clothing agencies, tailor-made clothing agencies, sewing machine agencies, piano and organ dealers and agents, foreign coffee and tea dealers, and agents or all other vocations whatsoever, and fix the rate of carriage of persons and wagonage, drayage and cartage of property; and may levy and collect a license tax and regulate hawkers, peddlers, pawnbrokers, restaurants, butchers, wholesale butchers, bathhouses and masseurs, lunch stands, lunch counters, lunch wagons, soft drink and ice cream stands and vendors, ice cream parlors, peanut and popcorn stands, and stands of every kind, hucksters, opera houses, moving picture shows, private parks, public lectures, public meetings, baseball parks, horse and cattle dealers, stockyards, wagon yards, auto yards, oil stations, wholesale and retail inspectors, gaugers, mercantile agents, manufacturing and other corporations, or institutions, machine shops, blacksmith shops, radio repair shops, foundries, sewer contractors, building contractors, stone contractors, sidewalk contractors, bridge contractors, plumbing contractors, brick contractors, cement contractors, and all subcontractors, street railroad cars, gas companies, light companies, power companies, and water companies, laundries, laundry agencies, rug and carpet cleaners, linen supply rental service, conditioning and renting for use, bed linen, table linen, towels, rugs, uniform aprons, coats, caps, coveralls, chair covers, automobile seat covers or any other items, ice plants and ice plant agencies, ice dealers, omnibuses, automobiles, automobile trailers, tractors, carts, drays, milk wagons, laundry wagons, delivery wagons, transfer and job wagons, ice wagons, and all other vehicles, traveling and auction stores, plumbers, pressing establishments, installment houses and agencies, produce and poultry dealers, feather renovators, baker and bakeries, bakery delivery wagons, and delivery autos, bottling works, dye works, cleaning establishments, sand plants, steamfitters, corn doctors, chiropodists, hackmen, taxicabs, buses, draymen, omnibus drivers, porters, dairies, and regulate the same, and all other pursuing like occupations; and may levy and collect a license tax, regulate, restrain, prohibit and suppress ordinaries, money brokers, money changers, intelligence and employment offices, and agencies,

public masquerades, balls, street exhibitions, dance halls, fortune tellers, pistol galleries, shooting galleries, palmists, private venereal hospitals, museums, menageries, equestrian performances, fluoroscopic views, picture shows, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, bowling alleys, billiard tables, pool and other tables, miniature golf courses, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, amusement parks, and the sale of unclaimed goods by express companies or common carriers, auto wrecking shops, bill posters, junk dealers, porters, carnival and street fairs, circuses and shows for parade and exhibition, or both, skating rinks and runners, and solicitors for steamboats, cars, stages, taxicabs, hotels, rooming houses, boarding houses, bathhouses, masseurs, hospitals, sanitariums, health schools, and all other pursuing like occupations.

2. Any town or city imposing a business license tax pursuant to this section upon providers of methane, propane, natural gas or electricity based upon volume of sales or gross receipts must impose by ordinance a corresponding tax upon any person, corporation or other business entity which purchases methane, propane, natural gas or electricity from an entity that is not subject to such town's or city's business license tax, and transports or transmits, or causes to be transported or transmitted, such methane, propane, natural gas or electricity to be transported or transmitted for ultimate use within such town or city. Any such tax shall be levied based upon the price paid for such methane, propane, natural gas or electricity and shall be at a rate equal to the effective rate of the business license tax imposed upon sellers of methane, propane, natural gas or electricity within such town or city. Any town or city imposing a tax pursuant to this section shall be authorized to require any company selling methane, propane, natural gas or electricity within such town or city, and which transports or transmits such methane, propane, natural gas or electricity, or causes to be transported or transmitted, to the purchaser within the town or city, to collect the tax from the purchaser. Notwithstanding the foregoing, the purchaser shall be responsible for the payment of any tax imposed by any town or city as authorized herein. Such tax shall not become effective unless the governing body of the town or city submits to the voters of the town or city at any public election allowed pursuant to subsection 1 or subsection 2 of section 115.123, RSMo, a proposal to impose a tax under the provisions of this section.

3. The question shall be submitted to the voters in substantially the following form:

Shall the (town or city) levy a tax for the purpose of equalizing the obligations of all users of methane, propane, natural gas or electricity of percent which is equal to the obligations of current taxpayers on the purchase price of methane, propane, natural gas or electricity sold by any person, corporation or other business entity for ultimate use in the town or city not subject to the current business

license tax where the proceeds shall be expended for the same or similar purposes as the existing tax?

G Yes

G No

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the first calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body of the town or city shall have no power to impose the tax authorized by this section unless and until the governing body of the town or city again submits the question to the qualified voters of the town or city and such question is approved by a majority of the qualified voters voting on the question.

4. In the event it is determined that the authorization of this section, the ballot language, submission of the issue to the voters, or approval of the issue is void for any reason, the sales of methane, propane, natural gas or electricity to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of chapter 393, RSMo, regulations adopted thereunder, and public service commission orders.

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to [144.510] **144.525** have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to [144.510] **144.525**;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to [144.510] **144.525**. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to [144.510] **144.525** unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being

valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to [144.510] **144.525** on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to [144.510] **144.525** the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

(4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption;

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

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

(7) "Purchaser" means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under sections 144.010 to [144.510] **144.525**;

(8) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things and services herein designated and defined as taxable under the terms of sections 144.010 to [144.510] **144.525**;

(9) "Sale at retail" means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable

consideration; except that, for the purposes of sections 144.010 to [144.510] **144.525** and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer assisted photo compositions to a purchaser to enable the purchaser to obtain for his own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to [144.510] **144.525** and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;

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

(c) Sales of **local and long distance telecommunications** service to [telephone] **telecommunications** subscribers and to others through equipment of [telephone] **telecommunications** subscribers for the transmission of messages and conversations, [both local or long distance,] and the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

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

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

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

(10) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed under section 144.020;

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

(12) "Telecommunications service", for the purpose of chapter 144, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures,

sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill:

(a) Access to the Internet, access to interactive computer services or electronic publishing services, except the amount paid for the telecommunication service used to provide such access;

(b) Answering services and paging services;

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

(d) Cable or satellite television or music services.

2. For purposes of the taxes imposed under sections 144.010 to [144.510] **144.525**, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to [144.510] **144.525** by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010, RSMo.

3. Sections 144.010 to [144.510] **144.525** may be known and quoted as the "Sales Tax Law".

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of **local and long distance telecommunications** service to [telephone] **telecommunications** subscribers and to others through equipment of [telephone] **telecommunications** subscribers for the transmission of messages and conversations[, both local and long distance,] and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by [telephone] **telecommunications** subscribers or others, pursuant to section 144.060, **and any amounts paid for access to the Internet or interactive computer**

services shall not be considered as amounts paid for [communication or telephone] **telecommunications** services [or equipment];

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the transportation division of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision (8) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase or use of motor vehicles, trailers, boats, and outboard motors shall be taxed and the tax paid as provided in sections 144.070 and 144.440. No tax shall be collected on the rental or lease of motor vehicles, trailers, boats, and outboard motors, except as provided in sections 144.070 and 144.440. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

2. All tickets sold which are sold under the provisions of sections 144.010 to [144.510] **144.525** which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

393.297. 1. It is the intent of the general assembly through the passage of this act:

(1) To maintain a fair and equitable tax structure and to preserve the local tax base by requiring all persons who provide electricity or gas service to pay an equitable share of the acquisition, use, and maintenance of gas and electric lines and public

rights-of-ways and for police, fire and other public health services; and

(2) To provide for uniformity in the calculation of gross receipts and to equalize business taxes, franchise fees and payments in lieu of taxes on electricity and gas service.

2. Political subdivisions provide police, fire and public health services, including the inspection of gas and electric equipment and other facilities used in the consumption of gas and electricity. Political subdivisions have imposed license taxes, franchise fees and sales taxes on providers of electricity and gas services, and have required payments in lieu of taxes from publicly owned utilities in order to pay for these and other services related to the transportation, use and consumption of electricity and gas services and for the general operation of government.

3. Missouri has historically restricted competition of electricity and gas services by authorizing the Missouri public service commission to limit the number of providers and has allowed counties, municipalities and villages to require franchises for these services. Persons which enter the gas and electric markets receive substantial revenues from consumers in Missouri, thereby creating a purposeful economic presence in this state. In addition, these persons may also cause electricity and gas to be transported over rights-of-ways and utility easements and may use electric lines or gas lines which are owned, controlled and maintained by other public and private entities in this state. Unless all participants in the electricity and gas markets pay comparable taxes and fees, there will be significant tax and franchise fee revenue losses by counties, municipalities and villages and unfair competitive disparities among such participants.

4. The legislature finds that electricity and natural gas are essential, but potentially dangerous, commodities in modern society. The electricity transmission and distribution system is an interconnected and interdependent grid. Therefore, the legislature finds that it is in the public interest to require registration of all sellers of electricity and gas for use or consumption within Missouri.

393.299. 1. Any county, municipality or village that requires a franchise as a condition to use rights-of-ways to sell gas or electricity to consumers in the county, municipality or village or requires payments in lieu of taxes from its municipally owned gas or electric utility shall charge a rental or other similar payment to all other persons, corporations and other business entities who transport gas or electricity or cause gas or electricity to be transported in the county, municipality or village if they are not otherwise subject to the franchise fee or payments in lieu of taxes. This charge shall be for the corresponding use of county, municipal or village rights-of-ways and gas or electric lines, provided the payment for the use is based upon the same percentage of gross receipts or the equivalent measure which is set forth in the

franchise agreement or the city ordinance. Payments in lieu of taxes may include the value of free or subsidized services which a municipally owned gas or electric utility provides the community, provided the value of these services are stated annually in a city ordinance as a percentage of the total gross receipts of the gas or electric system. Charges for providing retail access for gas or electricity shall be in accordance with rules established by the Missouri public service commission and shall not be included in the agreement.

2. The Missouri public service commission shall not allow any person to provide gas or electric service to any customer in this state unless it determines that the public convenience and necessity requires such service under this chapter or unless the person has entered into an agreement for the use of the rights-of-ways, gas lines or electric lines as provided in section 393.297 and this section and the general assembly has enacted other legislation authorizing this service. In the event it is determined that the authorization of section 393.297 and this section for the agreement to use rights-of-ways, gas lines or electric lines is void for any reason, then gas or electric service to customers in this state shall be permitted only upon a finding of public convenience and necessity and compliance with all provisions of this chapter, regulations adopted thereunder and public service commission orders.

3. No person, corporation, or other business entity shall provide electric service or transport or cause to be transported gas or electricity for resale in a county, municipality or village where there is a franchise for such service or where the municipality or village owns the gas or electric system unless the Missouri public service commission has authorized the additional service, which authorization shall not be granted until the person, corporation or other business entity has entered into an agreement with the county, municipality or village to transport gas or electricity over its rights-of-ways or its gas or electric lines and the general assembly has further authorized the entry of new companies who sell gas and electricity directly to consumers. The agreement shall provide for the payment based upon a percentage of gross receipts or the equivalent measure set forth in the franchise agreement or the city ordinance. This agreement shall be limited solely to the rent or other charge paid for the use of the rights-of-ways, gas lines or electric lines, the method of collection and the right to audit records. Nothing in section 393.297 or this section shall be construed to give any person, corporation or other business entity who uses the rights-of-ways, gas lines or electrical lines under any agreement authorized by section 393.297 and this section, any right other than the right to use existing rights-of-ways, gas lines or electric lines except for the sole purpose of causing gas or electricity to be transported directly to its customers in the county, municipality or village for consumption or use.

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Unofficial

Bill

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