

HOUSE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE

FOR
SENATE BILL NO. 1203

1 AN ACT

2 To repeal sections 137.100, 144.030 and
3 144.615, RSMo, and to enact in lieu thereof
4 three new sections relating to property of
5 certain interstate compact agencies.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
7 AS FOLLOWS:

8 Section A. Sections 137.100, 144.030 and 144.615, RSMo, are
9 repealed and three new sections enacted in lieu thereof, to be
10 known as sections 137.100, 144.030 and 144.615, to read as
11 follows:

12 137.100. The following subjects are exempt from taxation
13 for state, county or local purposes:

14 (1) Lands and other property belonging to this state;

15 (2) Lands and other property belonging to any city, county
16 or other political subdivision in this state, including market
17 houses, town halls and other public structures, with their
18 furniture and equipments, and on public squares and lots kept
19 open for health, use or ornament;

20 (3) Nonprofit cemeteries;

1 (4) The real estate and tangible personal property which is
2 used exclusively for agricultural or horticultural societies
3 organized in this state, including not-for-profit agribusiness
4 associations;

5 (5) All property, real and personal, actually and regularly
6 used exclusively for religious worship, for schools and colleges,
7 or for purposes purely charitable and not held for private or
8 corporate profit, except that the exemption herein granted does
9 not include real property not actually used or occupied for the
10 purpose of the organization but held or used as investment even
11 though the income or rentals received therefrom is used wholly
12 for religious, educational or charitable purposes;

13 (6) Household goods, furniture, wearing apparel and
14 articles of personal use and adornment, as defined by the state
15 tax commission, owned and used by a person in his home or
16 dwelling place;

17 (7) Real or personal property leased or otherwise
18 transferred by an interstate compact agency created pursuant to
19 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
20 RSMo, to another for which or whom such property is not exempt
21 when immediately after the lease or transfer, the interstate
22 compact agency enters into a leaseback or other agreement that
23 directly or indirectly gives such interstate compact agency a
24 right to use, control, and possess the property; provided,
25 however, that in the event of a conveyance of such property, the

1 interstate compact agency must retain an option to purchase the
2 property at a future date or, within the limitations period for
3 reverters, the property must revert back to the interstate
4 compact agency. Property will no longer be exempt pursuant to
5 this subdivision in the event of a conveyance as of the date, if
6 any, when:

7 (a) The right of the interstate compact agency to use,
8 control, and possess the property is terminated;

9 (b) The interstate compact agency no longer has an option
10 to purchase or otherwise acquire the property; and

11 (c) There is no provision for reverter of the property
12 within the limitation period for reverters.

13 144.030. 1. There is hereby specifically exempted from
14 [the provisions of] sections 144.010 to 144.525 and from the
15 computation of the tax levied, assessed or payable pursuant to
16 sections 144.010 to 144.525 such retail sales as may be made in
17 commerce between this state and any other state of the United
18 States, or between this state and any foreign country, and any
19 retail sale which the state of Missouri is prohibited from taxing
20 pursuant to the Constitution or laws of the United States of
21 America, and such retail sales of tangible personal property
22 which the general assembly of the state of Missouri is prohibited
23 from taxing or further taxing by the constitution of this state.

24 2. There are also specifically exempted from the provisions
25 of the local sales tax law as defined in section 32.085, RSMo,

1 section 238.235, RSMo, and sections 144.010 to 144.525 and
2 144.600 to 144.745 and from the computation of the tax levied,
3 assessed or payable pursuant to the local sales tax law as
4 defined in section 32.085, RSMo, section 238.235, RSMo, and
5 sections 144.010 to 144.525 and 144.600 to 144.745:

6 (1) Motor fuel or special fuel subject to an excise tax of
7 this state, unless all or part of such excise tax is refunded
8 pursuant to section [142.584] 142.815, RSMo; or upon the sale at
9 retail of fuel to be consumed in manufacturing or creating gas,
10 power, steam, electrical current or in furnishing water to be
11 sold ultimately at retail; or feed for livestock or poultry; or
12 grain to be converted into foodstuffs which are to be sold
13 ultimately in processed form at retail; or seed, limestone or
14 fertilizer which is to be used for seeding, liming or fertilizing
15 crops which when harvested will be sold at retail or will be fed
16 to livestock or poultry to be sold ultimately in processed form
17 at retail; economic poisons registered pursuant to the provisions
18 of the Missouri pesticide registration law (sections 281.220 to
19 281.310, RSMo) which are to be used in connection with the growth
20 or production of crops, fruit trees or orchards applied before,
21 during, or after planting, the crop of which when harvested will
22 be sold at retail or will be converted into foodstuffs which are
23 to be sold ultimately in processed form at retail;

24 (2) Materials, manufactured goods, machinery and parts
25 which when used in manufacturing, processing, compounding,

1 mining, producing or fabricating become a component part or
2 ingredient of the new personal property resulting from such
3 manufacturing, processing, compounding, mining, producing or
4 fabricating and which new personal property is intended to be
5 sold ultimately for final use or consumption; and materials,
6 including without limitation, gases and manufactured goods,
7 including without limitation, slagging materials and firebrick,
8 which are ultimately consumed in the manufacturing process by
9 blending, reacting or interacting with or by becoming, in whole
10 or in part, component parts or ingredients of steel products
11 intended to be sold ultimately for final use or consumption;

12 (3) Materials, replacement parts and equipment purchased
13 for use directly upon, and for the repair and maintenance or
14 manufacture of, motor vehicles, watercraft, railroad rolling
15 stock or aircraft engaged as common carriers of persons or
16 property;

17 (4) Replacement machinery, equipment, and parts and the
18 materials and supplies solely required for the installation or
19 construction of such replacement machinery, equipment, and parts,
20 used directly in manufacturing, mining, fabricating or producing
21 a product which is intended to be sold ultimately for final use
22 or consumption; and machinery and equipment, and the materials
23 and supplies required solely for the operation, installation or
24 construction of such machinery and equipment, purchased and used
25 to establish new, or to replace or expand existing, material

1 recovery processing plants in this state. For the purposes of
2 this subdivision, a "material recovery processing plant" means a
3 facility which converts recovered materials into a new product,
4 or a different form which is used in producing a new product, and
5 shall include a facility or equipment which is used exclusively
6 for the collection of recovered materials for delivery to a
7 material recovery processing plant but shall not include motor
8 vehicles used on highways. For purposes of this section, the
9 terms "motor vehicle" and "highway" shall have the same meaning
10 pursuant to section 301.010, RSMo;

11 (5) Machinery and equipment, and parts and the materials
12 and supplies solely required for the installation or construction
13 of such machinery and equipment, purchased and used to establish
14 new or to expand existing manufacturing, mining or fabricating
15 plants in the state if such machinery and equipment is used
16 directly in manufacturing, mining or fabricating a product which
17 is intended to be sold ultimately for final use or consumption;

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

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

24 (8) Newsprint, ink, computers, photosensitive paper and
25 film, toner, printing plates and other machinery, equipment,

1 replacement parts and supplies used in producing newspapers
2 published for dissemination of news to the general public;

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

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

7 (11) Railroad rolling stock for use in transporting persons
8 or property in interstate commerce and motor vehicles licensed
9 for a gross weight of twenty-four thousand pounds or more or
10 trailers used by common carriers, as defined in section 390.020,
11 RSMo, solely in the transportation of persons or property in
12 interstate commerce;

13 (12) Electrical energy used in the actual primary
14 manufacture, processing, compounding, mining or producing of a
15 product, or electrical energy used in the actual secondary
16 processing or fabricating of the product, or a material recovery
17 processing plant as defined in subdivision (4) of this
18 subsection, in facilities owned or leased by the taxpayer, if the
19 total cost of electrical energy so used exceeds ten percent of
20 the total cost of production, either primary or secondary,
21 exclusive of the cost of electrical energy so used or if the raw
22 materials used in such processing contain at least twenty-five
23 percent recovered materials as defined in section 260.200, RSMo.
24 For purposes of this subdivision, "processing" means any mode of
25 treatment, act or series of acts performed upon materials to

1 transform and reduce them to a different state or thing,
2 including treatment necessary to maintain or preserve such
3 processing by the producer at the production facility;

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

7 (14) Machinery, equipment, appliances and devices purchased
8 or leased and used solely for the purpose of preventing, abating
9 or monitoring air pollution, and materials and supplies solely
10 required for the installation, construction or reconstruction of
11 such machinery, equipment, appliances and devices, and so
12 certified as such by the director of the department of natural
13 resources, except that any action by the director pursuant to
14 this subdivision may be appealed to the air conservation
15 commission which may uphold or reverse such action;

16 (15) Machinery, equipment, appliances and devices purchased
17 or leased and used solely for the purpose of preventing, abating
18 or monitoring water pollution, and materials and supplies solely
19 required for the installation, construction or reconstruction of
20 such machinery, equipment, appliances and devices, and so
21 certified as such by the director of the department of natural
22 resources, except that any action by the director pursuant to
23 this subdivision may be appealed to the Missouri clean water
24 commission which may uphold or reverse such action;

25 (16) Tangible personal property purchased by a rural water

1 district;

2 (17) All amounts paid or charged for admission or
3 participation or other fees paid by or other charges to
4 individuals in or for any place of amusement, entertainment or
5 recreation, games or athletic events, including museums, fairs,
6 zoos and planetariums, owned or operated by a municipality or
7 other political subdivision where all the proceeds derived
8 therefrom benefit the municipality or other political subdivision
9 and do not inure to any private person, firm, or corporation;

10 (18) All sales of insulin and prosthetic or orthopedic
11 devices as defined on January 1, 1980, by the federal Medicare
12 program pursuant to Title XVIII of the Social Security Act of
13 1965, including the items specified in Section 1862(a)(12) of
14 that act, and also specifically including hearing aids and
15 hearing aid supplies and all sales of drugs which may be legally
16 dispensed by a licensed pharmacist only upon a lawful
17 prescription of a practitioner licensed to administer those
18 items, including samples and materials used to manufacture
19 samples which may be dispensed by a practitioner authorized to
20 dispense such samples and all sales of medical oxygen, home
21 respiratory equipment and accessories, hospital beds and
22 accessories and ambulatory aids, all sales of manual and powered
23 wheelchairs, stairway lifts, Braille writers, electronic Braille
24 equipment and, if purchased by or on behalf of a person with one
25 or more physical or mental disabilities to enable them to

1 function more independently, all sales of scooters, reading
2 machines, electronic print enlargers and magnifiers, electronic
3 alternative and augmentative communication devices, and items
4 used solely to modify motor vehicles to permit the use of such
5 motor vehicles by individuals with disabilities or sales of
6 over-the-counter or nonprescription drugs to individuals with
7 disabilities;

8 (19) All sales made by or to religious and charitable
9 organizations and institutions in their religious, charitable or
10 educational functions and activities and all sales made by or to
11 all elementary and secondary schools operated at public expense
12 in their educational functions and activities;

13 (20) All sales of aircraft to common carriers for storage
14 or for use in interstate commerce and all sales made by or to
15 not-for-profit civic, social, service or fraternal organizations,
16 including fraternal organizations which have been declared tax
17 exempt organizations pursuant to Section 501(c)(8) or (10) of the
18 1986 Internal Revenue Code, as amended, solely in their civic or
19 charitable functions and activities and all sales made to
20 eleemosynary and penal institutions and industries of the state,
21 and all sales made to any private not-for-profit institution of
22 higher education not otherwise excluded pursuant to subdivision
23 (19) of this subsection or any institution of higher education
24 supported by public funds, and all sales made to a state relief
25 agency in the exercise of relief functions and activities;

1 (21) All ticket sales made by benevolent, scientific and
2 educational associations which are formed to foster, encourage,
3 and promote progress and improvement in the science of
4 agriculture and in the raising and breeding of animals, and by
5 nonprofit summer theater organizations if such organizations are
6 exempt from federal tax pursuant to the provisions of the
7 Internal Revenue Code and all admission charges and entry fees to
8 the Missouri state fair or any fair conducted by a county
9 agricultural and mechanical society organized and operated
10 pursuant to sections 262.290 to 262.530, RSMo;

11 (22) All sales made to any private not-for-profit
12 elementary or secondary school, all sales of feed additives,
13 medications or vaccines administered to livestock or poultry in
14 the production of food or fiber, all sales of pesticides used in
15 the production of crops, livestock or poultry for food or fiber,
16 all sales of bedding used in the production of livestock or
17 poultry for food or fiber, all sales of propane or natural gas,
18 electricity or diesel fuel used exclusively for drying
19 agricultural crops, and all sales of farm machinery, other than
20 airplanes, motor vehicles and trailers. As used in this
21 subdivision, the term "feed additives" means tangible personal
22 property which, when mixed with feed for livestock or poultry, is
23 to be used in the feeding of livestock or poultry. As used in
24 this subdivision, the term "pesticides" includes adjuvants such
25 as crop oils, surfactants, wetting agents and other assorted

1 pesticide carriers used to improve or enhance the effect of a
2 pesticide and the foam used to mark the application of pesticides
3 and herbicides for the production of crops, livestock or poultry.
4 As used in this subdivision, the term "farm machinery" means new
5 or used farm tractors and such other new or used farm machinery
6 and equipment and repair or replacement parts thereon and
7 lubricants used exclusively for such farm machinery and equipment
8 and one-half of each purchaser's purchase of diesel fuel therefor
9 which is:

10 (a) Used exclusively for agricultural purposes;

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

13 (c) Used directly in producing farm products to be sold
14 ultimately in processed form or otherwise at retail or in
15 producing farm products to be fed to livestock or poultry to be
16 sold ultimately in processed form at retail;

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

22 (a) "Domestic use" means that portion of metered water
23 service, electricity, electrical current, natural, artificial or
24 propane gas, wood, coal or home heating oil, and in any city not
25 within a county, metered or unmetered water service, which an

1 individual occupant of a residential premises uses for
2 nonbusiness, noncommercial or nonindustrial purposes. Utility
3 service through a single or master meter for residential
4 apartments or condominiums, including service for common areas
5 and facilities and vacant units, shall be deemed to be for
6 domestic use. Each seller shall establish and maintain a system
7 whereby individual purchases are determined as exempt or
8 nonexempt;

9 (b) Regulated utility sellers shall determine whether
10 individual purchases are exempt or nonexempt based upon the
11 seller's utility service rate classifications as contained in
12 tariffs on file with and approved by the Missouri public service
13 commission. Sales and purchases made pursuant to the rate
14 classification "residential" and sales to and purchases made by
15 or on behalf of the occupants of residential apartments or
16 condominiums through a single or master meter, including service
17 for common areas and facilities and vacant units, shall be
18 considered as sales made for domestic use and such sales shall be
19 exempt from sales tax. Sellers shall charge sales tax upon the
20 entire amount of purchases classified as nondomestic use. The
21 seller's utility service rate classification and the provision of
22 service thereunder shall be conclusive as to whether or not the
23 utility must charge sales tax;

24 (c) Each person making domestic use purchases of services
25 or property and who uses any portion of the services or property

1 so purchased for a nondomestic use shall, by the fifteenth day of
2 the fourth month following the year of purchase, and without
3 assessment, notice or demand, file a return and pay sales tax on
4 that portion of nondomestic purchases. Each person making
5 nondomestic purchases of services or property and who uses any
6 portion of the services or property so purchased for domestic
7 use, and each person making domestic purchases on behalf of
8 occupants of residential apartments or condominiums through a
9 single or master meter, including service for common areas and
10 facilities and vacant units, under a nonresidential utility
11 service rate classification may, between the first day of the
12 first month and the fifteenth day of the fourth month following
13 the year of purchase, apply for credit or refund to the director
14 of revenue and the director shall give credit or make refund for
15 taxes paid on the domestic use portion of the purchase. The
16 person making such purchases on behalf of occupants of
17 residential apartments or condominiums shall have standing to
18 apply to the director of revenue for such credit or refund;

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

24 (25) Excise taxes, collected on sales at retail, imposed by
25 Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and

1 4271 of Title 26, United States Code. The director of revenue
2 shall promulgate rules pursuant to chapter 536, RSMo, to
3 eliminate all state and local sales taxes on such excise taxes;

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

11 (27) All sales made to an interstate compact agency created
12 pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010
13 to 238.100, RSMo, in the exercise of the functions and activities
14 of such agency as provided pursuant to the compact;

15 (28) Computers, computer software and computer security
16 systems purchased for use by architectural or engineering firms
17 headquartered in this state. For the purposes of this
18 subdivision, "headquartered in this state" means the office for
19 the administrative management of at least four integrated
20 facilities operated by the taxpayer is located in the state of
21 Missouri;

22 (29) All livestock sales when either the seller is engaged
23 in the growing, producing or feeding of such livestock, or the
24 seller is engaged in the business of buying and selling,
25 bartering or leasing of such livestock;

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

3 (31) Electrical energy or gas, whether natural, artificial
4 or propane, which is ultimately consumed in connection with the
5 manufacturing of cellular glass products;

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

9 (33) Tangible personal property purchased for use or
10 consumption directly or exclusively in the research and
11 development of prescription pharmaceuticals consumed by humans or
12 animals;

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

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

19 (36) All purchases by a contractor on behalf of an entity
20 located in another state, provided that the entity is authorized
21 to issue a certificate of exemption for purchases to a contractor
22 under the provisions of that state's laws. For purposes of this
23 subdivision, the term "certificate of exemption" shall mean any
24 document evidencing that the entity is exempt from sales and use
25 taxes on purchases pursuant to the laws of the state in which the

1 entity is located. Any contractor making purchases on behalf of
2 such entity shall maintain a copy of the entity's exemption
3 certificate as evidence of the exemption. If the exemption
4 certificate issued by the exempt entity to the contractor is
5 later determined by the director of revenue to be invalid for any
6 reason and the contractor has accepted the certificate in good
7 faith, neither the contractor or the exempt entity shall be
8 liable for the payment of any taxes, interest and penalty due as
9 the result of use of the invalid exemption certificate.

10 Materials shall be exempt from all state and local sales and use
11 taxes when purchased by a contractor for the purpose of
12 fabricating tangible personal property which is used in
13 fulfilling a contract for the purpose of constructing, repairing
14 or remodeling facilities for the following:

15 (a) An exempt entity located in this state, if the entity
16 is one of those entities able to issue project exemption
17 certificates in accordance with the provisions of section
18 144.062; or

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

23 (37) Tangible personal property purchased for use or
24 consumption directly or exclusively in research or
25 experimentation activities performed by life science companies

1 and so certified as such by the director of the department of
2 economic development or the director's designees; except that,
3 the total amount of exemptions certified pursuant to this section
4 shall not exceed one million three hundred thousand dollars in
5 state and local taxes per fiscal year. For purposes of this
6 subdivision, the term "life science companies" means companies
7 whose primary research activities are in agriculture,
8 pharmaceuticals, biomedical or food ingredients, and whose North
9 American Industry Classification System (NAICS) Codes fall under
10 industry 541710 (biotech research or development laboratories),
11 621511 (medical laboratories) or 541940 (veterinary services).
12 The exemption provided by this subdivision shall expire on June
13 30, 2003;

14 (38) All sales or other transfers of tangible personal
15 property by an interstate compact agency created pursuant to
16 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
17 RSMo, to another for which or whom such property is not exempt
18 when immediately after the lease or transfer, the interstate
19 compact agency enters into a leaseback or other agreement that
20 directly or indirectly gives such interstate compact agency a
21 right to use, control, and possess the property; provided,
22 however, that in the event of a conveyance of such property, the
23 interstate compact agency must retain an option to purchase the
24 property at a future date or, within the limitations period for
25 reverters, the property must revert back to the interstate

1 compact agency. Property will no longer be exempt pursuant to
2 this subdivision in the event of a conveyance as of the date, if
3 any, when:

4 (a) The right of the interstate compact agency to use,
5 control, and possess the property is terminated;

6 (b) The interstate compact agency no longer has an option
7 to purchase or otherwise acquire the property; and

8 (c) There is no provision for reverter of the property
9 within the limitation period for reverters.

10 144.615. There are specifically exempted from the taxes
11 levied in sections 144.600 to 144.745:

12 (1) Property, the storage, use or consumption of which this
13 state is prohibited from taxing [under] pursuant to the
14 constitution or laws of the United States or of this state;

15 (2) Property, the gross receipts from the sale of which are
16 required to be included in the measure of the tax imposed [under]
17 pursuant to the Missouri sales tax law;

18 (3) Tangible personal property, the sale or other transfer
19 of which, if made in this state, would be exempt from or not
20 subject to the Missouri sales tax [under] pursuant to the
21 provisions of subsections 2 and 3 of section 144.030;

22 (4) Motor vehicles, trailers, boats, and outboard motors
23 subject to the tax imposed by section 144.440;

24 (5) Tangible personal property which has been subjected to
25 a tax by any other state in this respect to its sales or use;

1 provided, if such tax is less than the tax imposed by sections
2 144.600 to 144.745, such property, if otherwise taxable, shall be
3 subject to a tax equal to the difference between such tax and the
4 tax imposed by sections 144.600 to 144.745;

5 (6) Tangible personal property held by processors,
6 retailers, importers, manufacturers, wholesalers, or jobbers
7 solely for resale in the regular course of business;

8 (7) Personal and household effects and farm machinery used
9 while an individual was a bona fide resident of another state and
10 who thereafter became a resident of this state, or tangible
11 personal property brought into the state by a nonresident for his
12 own storage, use or consumption while temporarily within the
13 state.