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SB 0673

HOUSE _____ AMENDMENT NO. _____

Burlison

Offered By

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1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 673,
2 Page 2, Section 136.055, Line 47, by inserting after all of said line the following:

3 "144.030. 1. There is hereby specifically exempted from the provisions of sections
4 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to
5 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and
6 any other state of the United States, or between this state and any foreign country, and any retail
7 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of
8 the United States of America, and such retail sales of tangible personal property which the general
9 assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of
10 this state.

11 2. There are also specifically exempted from the provisions of the local sales tax law as
12 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to
13 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local
14 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and
15 144.600 to 144.745:

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

28 (2) Materials, manufactured goods, machinery and parts which when used in
29 manufacturing, processing, compounding, mining, producing or fabricating become a component

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

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

11 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers
12 pulled by such motor vehicles, that are actually used in the normal course of business to haul
13 property on the public highways of the state, and that are capable of hauling loads commensurate
14 with the motor vehicle's registered weight; and the materials, replacement parts, and equipment
15 purchased for use directly upon, and for the repair and maintenance or manufacture of such
16 vehicles. For purposes of this subsection "motor vehicle" and "public highway" shall have the
17 meaning as ascribed in section 390.020;

18 (5) Replacement machinery, equipment, and parts and the materials and supplies solely
19 required for the installation or construction of such replacement machinery, equipment, and parts,
20 used directly in manufacturing, mining, fabricating or producing a product which is intended to be
21 sold ultimately for final use or consumption; and machinery and equipment, and the materials and
22 supplies required solely for the operation, installation or construction of such machinery and
23 equipment, purchased and used to establish new, or to replace or expand existing, material
24 recovery processing plants in this state. For the purposes of this subdivision, a "material recovery
25 processing plant" means a facility that has as its primary purpose the recovery of materials into a
26 useable product or a different form which is used in producing a new product and shall include a
27 facility or equipment which are used exclusively for the collection of recovered materials for
28 delivery to a material recovery processing plant but shall not include motor vehicles used on
29 highways. For purposes of this section, the terms motor vehicle and highway shall have the same
30 meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a
31 manufacturing process or the use of a product previously recovered. The material recovery
32 processing plant shall qualify under the provisions of this section regardless of ownership of the
33 material being recovered;

34 [(5)] (6) Machinery and equipment, and parts and the materials and supplies solely
35 required for the installation or construction of such machinery and equipment, purchased and used
36 to establish new or to expand existing manufacturing, mining or fabricating plants in the state,

1 including any titled manufacturing or mining equipment, if such machinery and equipment is used
2 directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately
3 for final use or consumption;

4 [(6)] (7) Tangible personal property which is used exclusively in the manufacturing,
5 processing, modification or assembling of products sold to the United States government or to any
6 agency of the United States government;

7 [(7)] (8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

8 [(8)] (9) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates
9 and other machinery, equipment, replacement parts and supplies used in producing newspapers
10 published for dissemination of news to the general public;

11 [(9)] (10) The rentals of films, records or any type of sound or picture transcriptions for
12 public commercial display;

13 [(10)] (11) Pumping machinery and equipment used to propel products delivered by
14 pipelines engaged as common carriers;

15 [(11)] (12) Railroad rolling stock for use in transporting persons or property in interstate
16 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more
17 or trailers used by common carriers, as defined in section 390.020, in the transportation of persons
18 or property;

19 [(12)] (13) Electrical energy used in the actual primary manufacture, processing,
20 *compounding, mining or producing of a product, or electrical energy used in the actual secondary*
21 *processing or fabricating of the product, or a material recovery processing plant as defined in*
22 *subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of*
23 *electrical energy so used exceeds ten percent of the total cost of production, either primary or*
24 *secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such*
25 *processing contain at least twenty-five percent recovered materials as defined in section 260.200.*
26 *There shall be a rebuttable presumption that the raw materials used in the primary manufacture of*
27 *automobiles contain at least twenty-five percent recovered materials. For purposes of this*
28 *subdivision, "processing" means any mode of treatment, act or series of acts performed upon*
29 *materials to transform and reduce them to a different state or thing, including treatment necessary*
30 *to maintain or preserve such processing by the producer at the production facility;*

31 [(13)] (14) Anodes which are used or consumed in manufacturing, processing,
32 compounding, mining, producing or fabricating and which have a useful life of less than one year;

33 [(14)] (15) Machinery, equipment, appliances and devices purchased or leased and used
34 solely for the purpose of preventing, abating or monitoring air pollution, and materials and
35 supplies solely required for the installation, construction or reconstruction of such machinery,
36 equipment, appliances and devices;

1 ~~[(15)]~~ (16) Machinery, equipment, appliances and devices purchased or leased and used
2 solely for the purpose of preventing, abating or monitoring water pollution, and materials and
3 supplies solely required for the installation, construction or reconstruction of such machinery,
4 equipment, appliances and devices;

5 ~~[(16)]~~ (17) Tangible personal property purchased by a rural water district;

6 ~~[(17)]~~ (18) All amounts paid or charged for admission or participation or other fees paid
7 by or other charges to individuals in or for any place of amusement, entertainment or recreation,
8 games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by
9 a municipality or other political subdivision where all the proceeds derived therefrom benefit the
10 municipality or other political subdivision and do not inure to any private person, firm, or
11 corporation;

12 ~~[(18)]~~ (19) All sales of insulin and prosthetic or orthopedic devices as defined on January
13 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
14 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
15 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
16 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
17 administer those items, including samples and materials used to manufacture samples which may
18 be dispensed by a practitioner authorized to dispense such samples and all sales or rental of
19 medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and
20 ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway lifts, Braille
21 writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with
22 one or more physical or mental disabilities to enable them to function more independently, all
23 sales or rental of scooters, reading machines, electronic print enlargers and magnifiers, electronic
24 alternative and augmentative communication devices, and items used solely to modify motor
25 vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of
26 over-the-counter or nonprescription drugs to individuals with disabilities, and drugs required by
27 the Food and Drug Administration to meet the over-the-counter drug product labeling
28 requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner
29 licensed to prescribe;

30 ~~[(19)]~~ (20) All sales made by or to religious and charitable organizations and institutions
31 in their religious, charitable or educational functions and activities and all sales made by or to all
32 elementary and secondary schools operated at public expense in their educational functions and
33 activities;

34 ~~[(20)]~~ (21) All sales of aircraft to common carriers for storage or for use in interstate
35 commerce and all sales made by or to not-for-profit civic, social, service or fraternal
36 organizations, including fraternal organizations which have been declared tax-exempt

1 organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as
2 amended, in their civic or charitable functions and activities and all sales made to eleemosynary
3 and penal institutions and industries of the state, and all sales made to any private not-for-profit
4 institution of higher education not otherwise excluded pursuant to subdivision (19) of this
5 subsection or any institution of higher education supported by public funds, and all sales made to
6 a state relief agency in the exercise of relief functions and activities;

7 [(21)] (22) All ticket sales made by benevolent, scientific and educational associations
8 which are formed to foster, encourage, and promote progress and improvement in the science of
9 agriculture and in the raising and breeding of animals, and by nonprofit summer theater
10 organizations if such organizations are exempt from federal tax pursuant to the provisions of the
11 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any
12 fair conducted by a county agricultural and mechanical society organized and operated pursuant to
13 sections 262.290 to 262.530;

14 [(22)] (23) All sales made to any private not-for-profit elementary or secondary school, all
15 sales of feed additives, medications or vaccines administered to livestock or poultry in the
16 production of food or fiber, all sales of pesticides used in the production of crops, livestock or
17 poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for
18 food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for
19 drying agricultural crops, natural gas used in the primary manufacture or processing of fuel
20 ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new
21 generation cooperative or an eligible new generation processing entity as defined in section
22 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and
23 trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed
24 additives" means tangible personal property which, when mixed with feed for livestock or poultry,
25 is to be used in the feeding of livestock or poultry. As used in this subdivision, the term
26 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted
27 pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark
28 the application of pesticides and herbicides for the production of crops, livestock or poultry. As
29 used in this subdivision, the term "farm machinery and equipment" means new or used farm
30 tractors and such other new or used farm machinery and equipment and repair or replacement
31 parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary
32 mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively,
33 solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants,
34 chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and
35 one-half of each purchaser's purchase of diesel fuel therefor which is:

36 (a) Used exclusively for agricultural purposes;

- 1 (b) Used on land owned or leased for the purpose of producing farm products; and
2 (c) Used directly in producing farm products to be sold ultimately in processed form or
3 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
4 ultimately in processed form at retail;

5 [(23)] (24) Except as otherwise provided in section 144.032, all sales of metered water
6 service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating
7 oil for domestic use and in any city not within a county, all sales of metered or unmetered water
8 service for domestic use:

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

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

27 (c) Each person making domestic use purchases of services or property and who uses any
28 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day
29 of the fourth month following the year of purchase, and without assessment, notice or demand,
30 file a return and pay sales tax on that portion of nondomestic purchases. Each person making
31 nondomestic purchases of services or property and who uses any portion of the services or
32 property so purchased for domestic use, and each person making domestic purchases on behalf of
33 occupants of residential apartments or condominiums through a single or master meter, including
34 service for common areas and facilities and vacant units, under a nonresidential utility service rate
35 classification may, between the first day of the first month and the fifteenth day of the fourth
36 month following the year of purchase, apply for credit or refund to the director of revenue and the

1 director shall give credit or make refund for taxes paid on the domestic use portion of the
2 purchase. The person making such purchases on behalf of occupants of residential apartments or
3 condominiums shall have standing to apply to the director of revenue for such credit or refund;

4 [(24)] (25) All sales of handicraft items made by the seller or the seller's spouse if the
5 seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from
6 such sales do not constitute a majority of the annual gross income of the seller;

7 [(25)] (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061,
8 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director
9 of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales
10 taxes on such excise taxes;

11 [(26)] (27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne
12 vessels which are used primarily in or for the transportation of property or cargo, or the
13 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if
14 such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is
15 afloat upon such river;

16 [(27)] (28) All sales made to an interstate compact agency created pursuant to sections
17 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of
18 such agency as provided pursuant to the compact;

19 [(28)] (29) Computers, computer software and computer security systems purchased for
20 use by architectural or engineering firms headquartered in this state. For the purposes of this
21 subdivision, "headquartered in this state" means the office for the administrative management of
22 at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

23 [(29)] (30) All livestock sales when either the seller is engaged in the growing, producing
24 or feeding of such livestock, or the seller is engaged in the business of buying and selling,
25 bartering or leasing of such livestock;

26 [(30)] (31) All sales of barges which are to be used primarily in the transportation of
27 property or cargo on interstate waterways;

28 [(31)] (32) Electrical energy or gas, whether natural, artificial or propane, water, or other
29 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
30 products or in any material recovery processing plant as defined in subdivision (4) of this
31 subsection;

32 [(32)] (33) Notwithstanding other provisions of law to the contrary, all sales of pesticides
33 or herbicides used in the production of crops, aquaculture, livestock or poultry;

34 [(33)] (34) Tangible personal property and utilities purchased for use or consumption
35 directly or exclusively in the research and development of agricultural/biotechnology and plant
36 genomics products and prescription pharmaceuticals consumed by humans or animals;

1 [(34)] (35) All sales of grain bins for storage of grain for resale;

2 [(35)] (36) All sales of feed which are developed for and used in the feeding of pets
3 owned by a commercial breeder when such sales are made to a commercial breeder, as defined in
4 section 273.325, and licensed pursuant to sections 273.325 to 273.357;

5 [(36)] (37) All purchases by a contractor on behalf of an entity located in another state,
6 provided that the entity is authorized to issue a certificate of exemption for purchases to a
7 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
8 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
9 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.
10 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's
11 exemption certificate as evidence of the exemption. If the exemption certificate issued by the
12 exempt entity to the contractor is later determined by the director of revenue to be invalid for any
13 reason and the contractor has accepted the certificate in good faith, neither the contractor or the
14 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of
15 use of the invalid exemption certificate. Materials shall be exempt from all state and local sales
16 and use taxes when purchased by a contractor for the purpose of fabricating tangible personal
17 property which is used in fulfilling a contract for the purpose of constructing, repairing or
18 remodeling facilities for the following:

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

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

24 [(37)] (38) All sales or other transfers of tangible personal property to a lessor who leases
25 the property under a lease of one year or longer executed or in effect at the time of the sale or
26 other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or
27 sections 238.010 to 238.100;

28 [(38)] (39) Sales of tickets to any collegiate athletic championship event that is held in a
29 facility owned or operated by a governmental authority or commission, a quasi-governmental
30 agency, a state university or college or by the state or any political subdivision thereof, including a
31 municipality, and that is played on a neutral site and may reasonably be played at a site located
32 outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that
33 is not located on the campus of a conference member institution participating in the event;

34 [(39)] (40) All purchases by a sports complex authority created under section 64.920, and
35 all sales of utilities by such authority at the authority's cost that are consumed in connection with
36 the operation of a sports complex leased to a professional sports team;

1 [(40)] (41) Beginning January 1, 2009, but not after January 1, 2015, materials,
2 replacement parts, and equipment purchased for use directly upon, and for the modification,
3 replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

4 [(41)] (42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or
5 similar places of business for use in the normal course of business and money received by a
6 shooting range or similar places of business from patrons and held by a shooting range or similar
7 place of business for redistribution to patrons at the conclusion of a shooting event.”; and

8
9 Further amend said bill by amending the title, enacting clause, and intersectional references
10 accordingly.

