

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 903

Introduced by Cornett, 45; Adams, 24; Campbell, 25; Council, 11;
Dubas, 34; Fulton, 29; Hadley, 37; Harr, 8; Lambert,
2; Nelson, 6; Price, 3; Sullivan, 41.

Read first time January 09, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701, 77-2701.04, and 77-2701.16, Reissue Revised
3 Statutes of Nebraska; to define terms; to exempt youth
4 sports from sales tax; to harmonize provisions; to
5 provide an operative date; to repeal the original
6 sections; and to declare an emergency.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
4 77-27,236 and sections 3 and 4 of this act shall be known and may be
5 cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.04, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
9 and sections 3 and 4 of this act, unless the context otherwise
10 requires, the definitions found in sections 77-2701.05 to 77-2701.53
11 and section 3 of this act shall be used.

12 Sec. 3. (1) Admission means the right or privilege to
13 have access to a place or location where amusement, entertainment, or
14 recreation is provided to an audience, spectators, or the
15 participants in the activity. Admission includes a membership that
16 allows access to or use of a place or location, but which membership
17 does not include the right to hold office, vote, or change the
18 policies of the organization.

19 For purposes of this section:

20 (a) Access to a place or location means the right to be
21 in the place or location for purposes of amusement, entertainment, or
22 recreation at a time when the general public is not allowed at that
23 place or location absent the granting of the admission;

24 (b) Entertainment means the amusement or diversion
25 provided to an audience or spectators by performers; and

1 (c) Recreation means a sport or activity engaged in by
2 participants for purposes of refreshment, relaxation, or diversion of
3 the participants. Recreation does not include practice or
4 instruction.

5 (2) Admission does not include the lease or rental of a
6 location, facility, or part of a location or facility if the lessor
7 cedes the right to determine who is granted access to the location or
8 facility to the lessee for the period of the lease or rental.

9 Sec. 4. Sales and use taxes shall not be imposed on the
10 gross receipts from the sale, use, or other consumption of amounts
11 charged to participate in a youth sports event or youth sports league
12 by political subdivisions or organizations that are exempt from
13 income tax under section 501(c)(3) of the Internal Revenue Code.

14 For purposes of this section:

15 (1) Sports event means a tournament or a single
16 competition that occurs over a limited period of time annually or
17 intermittently where the participants engage in a sport;

18 (2) Sports league means an organized series of sports
19 competitions taking place over several weeks or months between teams
20 or individuals that are members of the league; and

21 (3) Youth sports event or youth sports league means an
22 event or league that is restricted to participants who are less than
23 nineteen years of age.

24 Sec. 5. Section 77-2701.16, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-2701.16 (1) Gross receipts means the total amount of
2 the sale or lease or rental price, as the case may be, of the retail
3 sales of retailers.

4 (2) Gross receipts of every person engaged as a public
5 utility specified in this subsection, as a community antenna
6 television service operator, or as a satellite service operator or
7 any person involved in connecting and installing services defined in
8 subdivision (2)(a), (b), or (d) of this section means:

9 (a)(i) In the furnishing of telephone communication
10 service, other than mobile telecommunications service as described in
11 section 77-2703.04, the gross income received from furnishing
12 ancillary services, except for conference bridging services, and
13 intrastate telecommunications services, except for value-added,
14 nonvoice data service; and

15 (ii) In the furnishing of mobile telecommunications
16 service as described in section 77-2703.04, the gross income received
17 from furnishing mobile telecommunications service that originates and
18 terminates in the same state to a customer with a place of primary
19 use in Nebraska;

20 (b) In the furnishing of telegraph service, the gross
21 income received from the furnishing of intrastate telegraph services;

22 (c) In the furnishing of gas, electricity, sewer, and
23 water service, the gross income received from the furnishing of such
24 services upon billings or statements rendered to consumers for such
25 utility services;

1 (d) In the furnishing of community antenna television
2 service or satellite service, the gross income received from the
3 furnishing of such community antenna television service as regulated
4 under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite
5 service; and

6 (e) The gross income received from the provision,
7 installation, construction, servicing, or removal of property used in
8 conjunction with the furnishing, installing, or connecting of any
9 public utility services specified in subdivision (2)(a) or (b) of
10 this section or community antenna television service or satellite
11 service specified in subdivision (2)(d) of this section, except when
12 acting as a subcontractor for a public utility, this subdivision does
13 not apply to the gross income received by a contractor electing to be
14 treated as a consumer of building materials under subdivision (2) or
15 (3) of section 77-2701.10 for any such services performed on the
16 customer's side of the utility demarcation point.

17 (3) Gross receipts of every person engaged in selling,
18 leasing, or otherwise providing intellectual or entertainment
19 property means:

20 (a) In the furnishing of computer software, the gross
21 income received, including the charges for coding, punching, or
22 otherwise producing any computer software and the charges for the
23 tapes, disks, punched cards, or other properties furnished by the
24 seller; and

25 (b) In the furnishing of videotapes, movie film,

1 satellite programming, satellite programming service, and satellite
2 television signal descrambling or decoding devices, the gross income
3 received from the license, franchise, or other method establishing
4 the charge.

5 (4) Gross receipts for providing a service means:

6 (a) The gross income received for building cleaning and
7 maintenance, pest control, and security;

8 (b) The gross income received for motor vehicle washing,
9 waxing, towing, and painting;

10 (c) The gross income received for computer software
11 training;

12 (d) The gross income received for installing and applying
13 tangible personal property if the sale of the property is subject to
14 tax. If any or all of the charge for installation is free to the
15 customer and is paid by a third-party service provider to the
16 installer, any tax due on that part of the activation commission,
17 finder's fee, installation charge, or similar payment made by the
18 third-party service provider shall be paid and remitted by the third-
19 party service provider;

20 (e) The gross income received for services of
21 recreational vehicle parks;

22 (f) The gross income received for labor for repair or
23 maintenance services performed with regard to tangible personal
24 property the sale of which would be subject to sales and use taxes,
25 excluding motor vehicles, except as otherwise provided in section

1 77-2704.26 or 77-2704.50;

2 (g) The gross income received for animal specialty
3 services except (i) veterinary services, (ii) specialty services
4 performed on livestock as defined in section 54-183, and (iii) animal
5 grooming performed by a licensed veterinarian or a licensed
6 veterinary technician in conjunction with medical treatment; and

7 (h) The gross income received for detective services.

8 (5) Gross receipts includes the sale of admissions, ~~which~~
9 ~~means the right or privilege to have access to or to use a place or~~
10 ~~location. An admission includes a membership that allows access to or~~
11 ~~use of a place or location, but which membership does not include the~~
12 ~~right to hold office, vote, or change the policies of the~~
13 ~~organization.~~ When an admission to an activity or a membership
14 constituting an admission pursuant to this subsection is combined
15 with the solicitation of a contribution, the portion or the amount
16 charged representing the fair market price of the admission shall be
17 considered a retail sale subject to the tax imposed by section
18 77-2703. The organization conducting the activity shall determine the
19 amount properly attributable to the purchase of the privilege,
20 benefit, or other consideration in advance, and such amount shall be
21 clearly indicated on any ticket, receipt, or other evidence issued in
22 connection with the payment.

23 (6) Gross receipts includes the sale of live plants
24 incorporated into real estate except when such incorporation is
25 incidental to the transfer of an improvement upon real estate or the

1 real estate.

2 (7) Gross receipts includes the sale of any building
3 materials annexed to real estate by a person electing to be taxed as
4 a retailer pursuant to subdivision (1) of section 77-2701.10.

5 (8) Gross receipts includes the sale of and recharge of
6 prepaid calling service and prepaid wireless calling service.

7 (9) Gross receipts includes the retail sale of digital
8 audio works, digital audiovisual works, digital codes, and digital
9 books delivered electronically if the products are taxable when
10 delivered on tangible storage media. A sale includes the transfer of
11 a permanent right of use, the transfer of a right of use that
12 terminates on some condition, and the transfer of a right of use
13 conditioned upon the receipt of continued payments.

14 (10) Gross receipts does not include:

15 (a) The amount of any rebate granted by a motor vehicle
16 or motorboat manufacturer or dealer at the time of sale of the motor
17 vehicle or motorboat, which rebate functions as a discount from the
18 sales price of the motor vehicle or motorboat; or

19 (b) The price of property or services returned or
20 rejected by customers when the full sales price is refunded either in
21 cash or credit.

22 Sec. 6. This act becomes operative on July 1, 2012.

23 Sec. 7. Original sections 77-2701, 77-2701.04, and
24 77-2701.16, Reissue Revised Statutes of Nebraska, are repealed.

25 Sec. 8. Since an emergency exists, this act takes effect

1 when passed and approved according to law.