

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 282

Introduced by Pirsch, 4; Harr, 8; Smith, 14.

Read first time January 16, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2704.14, Reissue Revised Statutes of Nebraska, and
3 section 77-2701.16, Revised Statutes Cumulative
4 Supplement, 2012; to exempt motor vehicle washing and
5 waxing services from sales and use tax; to provide an
6 operative date; and to repeal the original sections.

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

1 Section 1. Section 77-2701.16, Revised Statutes
2 Cumulative Supplement, 2012, is amended to read:

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

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

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

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

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

24 (c) In the furnishing of gas, electricity, sewer, and
25 water service, the gross income received from the furnishing of such

1 services upon billings or statements rendered to consumers for such
2 utility services;

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

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

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

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

1 seller; and

2 (b) In the furnishing of videotapes, movie film,
3 satellite programming, satellite programming service, and satellite
4 television signal descrambling or decoding devices, the gross income
5 received from the license, franchise, or other method establishing
6 the charge.

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

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

10 (b) The gross income received for motor vehicle ~~washing,~~
11 ~~waxing,~~ towing, and painting;

12 (c) The gross income received for computer software
13 training;

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

22 (e) The gross income received for services of
23 recreational vehicle parks;

24 (f) The gross income received for labor for repair or
25 maintenance services performed with regard to tangible personal

1 property the sale of which would be subject to sales and use taxes,
2 excluding motor vehicles, except as otherwise provided in section
3 77-2704.26 or 77-2704.50;

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

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

10 (5) Gross receipts includes the sale of admissions. When
11 an admission to an activity or a membership constituting an admission
12 is combined with the solicitation of a contribution, the portion or
13 the amount charged representing the fair market price of the
14 admission shall be considered a retail sale subject to the tax
15 imposed by section 77-2703. The organization conducting the activity
16 shall determine the amount properly attributable to the purchase of
17 the privilege, benefit, or other consideration in advance, and such
18 amount shall be clearly indicated on any ticket, receipt, or other
19 evidence issued in connection with the payment.

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

24 (7) Gross receipts includes the sale of any building
25 materials annexed to real estate by a person electing to be taxed as

1 a retailer pursuant to subdivision (1) of section 77-2701.10.

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

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

11 (10) Gross receipts does not include:

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

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

19 Sec. 2. Section 77-2704.14, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2704.14 Sales and use taxes shall not be imposed on
22 the gross receipts from the sale, lease, or rental of and the
23 storage, use, or other consumption in this state of the use of coin-
24 operated machines used for laundering and cleaning, ~~except the~~
25 ~~cleaning or washing of motor vehicles.~~

1 Sec. 3. This act becomes operative on October 1, 2013.

2 Sec. 4. Original section 77-2704.14, Reissue Revised
3 Statutes of Nebraska, and section 77-2701.16, Revised Statutes
4 Cumulative Supplement, 2012, are repealed.