

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 278**

Introduced by Harr, 8.

Read first time January 14, 2015

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2704.14, Reissue Revised Statutes of Nebraska, and section  
3 77-2701.16, Revised Statutes Cumulative Supplement, 2014; to exempt  
4 motor vehicle washing and waxing services from sales and use tax; to  
5 harmonize provisions; to provide an operative date; and to repeal  
6 the original sections.

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

1 Section 1. Section 77-2701.16, Revised Statutes Cumulative  
2 Supplement, 2014, is amended to read:

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

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

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

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

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

24 (c)(i) In the furnishing of gas, sewer, water, and electricity  
25 service, other than electricity service to a customer-generator as  
26 defined in section 70-2002, the gross income received from the furnishing  
27 of such services upon billings or statements rendered to consumers for  
28 such utility services.

29 (ii) In the furnishing of electricity service to a customer-  
30 generator as defined in section 70-2002, the net energy use upon billings  
31 or statements rendered to customer-generators for such electricity

1 service;

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

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

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

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

23 (b) In the furnishing of videotapes, movie film, satellite  
24 programming, satellite programming service, and satellite television  
25 signal descrambling or decoding devices, the gross income received from  
26 the license, franchise, or other method establishing the charge.

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

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

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

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

2 (d) The gross income received for installing and applying tangible  
3 personal property if the sale of the property is subject to tax. If any  
4 or all of the charge for installation is free to the customer and is paid  
5 by a third-party service provider to the installer, any tax due on that  
6 part of the activation commission, finder's fee, installation charge, or  
7 similar payment made by the third-party service provider shall be paid  
8 and remitted by the third-party service provider;

9 (e) The gross income received for services of recreational vehicle  
10 parks;

11 (f) The gross income received for labor for repair or maintenance  
12 services performed with regard to tangible personal property the sale of  
13 which would be subject to sales and use taxes, excluding motor vehicles,  
14 except as otherwise provided in section 77-2704.26 or 77-2704.50;

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

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

21 (5) Gross receipts includes the sale of admissions. When an  
22 admission to an activity or a membership constituting an admission is  
23 combined with the solicitation of a contribution, the portion or the  
24 amount charged representing the fair market price of the admission shall  
25 be considered a retail sale subject to the tax imposed by section  
26 77-2703. The organization conducting the activity shall determine the  
27 amount properly attributable to the purchase of the privilege, benefit,  
28 or other consideration in advance, and such amount shall be clearly  
29 indicated on any ticket, receipt, or other evidence issued in connection  
30 with the payment.

31 (6) Gross receipts includes the sale of live plants incorporated

1 into real estate except when such incorporation is incidental to the  
2 transfer of an improvement upon real estate or the real estate.

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

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

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

15 (10) Gross receipts does not include:

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

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

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

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

29 Sec. 3. This act becomes operative on October 1, 2015.

30 Sec. 4. Original section 77-2704.14, Reissue Revised Statutes of  
31 Nebraska, and section 77-2701.16, Revised Statutes Cumulative Supplement,

1 2014, are repealed.