

1 H.137  
2 Introduced by Representatives Clarkson of Woodstock, Olsen of Jamaica,  
3 Wizowaty of Burlington, Andrews of Rutland City, Aswad of  
4 Burlington, Batchelor of Derby, Bissonnette of Winooski, Bohi  
5 of Hartford, Branagan of Georgia, Burditt of West Rutland,  
6 Burke of Brattleboro, Buxton of Royalton, Campion of  
7 Bennington, Christie of Hartford, Clark of Vergennes, Conquest  
8 of Newbury, Corcoran of Bennington, Courcelle of Rutland  
9 City, Degree of St. Albans City, Edwards of Brattleboro, Fagan  
10 of Rutland City, French of Shrewsbury, French of Randolph,  
11 Haas of Rochester, Kitzmiller of Montpelier, Komline of  
12 Dorset, Lanpher of Vergennes, Larocque of Barnet, Lenes of  
13 Shelburne, Lewis of Berlin, Lorber of Burlington, Macaig of  
14 Williston, Marek of Newfane, Masland of Thetford, McFaun of  
15 Barre Town, McNeil of Rutland Town, Miller of Shaftsbury,  
16 Mitchell of Barnard, Mook of Bennington, Morrissey of  
17 Bennington, Mrowicki of Putney, Nuovo of Middlebury,  
18 Pearson of Burlington, Peaslee of Guildhall, Perley of  
19 Enosburgh, Poirier of Barre City, Pugh of South Burlington,  
20 Ralston of Middlebury, Ram of Burlington, Reis of St.  
21 Johnsbury, Scheuermann of Stowe, Shaw of Pittsford, South of

1                   St. Johnsbury, Stevens of Waterbury, Stevens of Shoreham,  
2                   Strong of Albany, Stuart of Brattleboro, Sweaney of Windsor,  
3                   Taylor of Barre City, Till of Jericho, Toll of Danville, Webb of  
4                   Shelburne, Weston of Burlington and Young of Albany

5       Referred to Committee on

6       Date:

7       Subject: Taxation; sales tax; entertainment charges

8       Statement of purpose: This bill proposes to repeal the imposition of the sales  
9       tax on entertainment charges for nonprofit organizations with entertainment  
10       charges in excess of \$50,000.00, and reinstate the requirement that any  
11       exemption be premised on the nonprofit organization bearing the risk of loss  
12       for the production.

13           An act relating to exempting nonprofit entertainment charges from the sales  
14           tax if the nonprofit organization bears the risk of loss of the production

15       It is hereby enacted by the General Assembly of the State of Vermont:

16       Sec. 1. 32 V.S.A. § 9743 is amended to read:

17       § 9743. ORGANIZATIONS NOT COVERED

18           Any sale, service, or admission to a place of entertainment charged by or to  
19       any of the following or any use by any of the following ~~are~~ is not subject to the  
20       sales and use taxes imposed under this chapter:

1           (1) The state of Vermont, or any of its agencies, instrumentalities, public  
2 authorities, public corporations (including a public corporation created  
3 pursuant to agreement or compact with another state), or political subdivisions  
4 when it is the purchaser, user, or consumer, or when it is a vendor of services  
5 or property of a kind not ordinarily sold by private persons, or when it charges  
6 for admission to any entertainment; except that a performance jointly produced  
7 or presented by it and another person shall not be exempt from tax under this  
8 section unless it meets the joint production requirements imposed on a  
9 qualified organization under subdivision (3)(B) of this section and sales of  
10 alcoholic beverages shall not be exempt from sales tax.

11           (2) The United States of America, any of its agencies and  
12 instrumentalities, insofar as it is immune from taxation when it is the  
13 purchaser, user, or consumer, or when it sells services or property of a kind not  
14 ordinarily sold by private persons.

15           (3) Organizations which qualify for exempt status under the provisions  
16 of 26 U.S.C. § 501(c)(3) and agricultural organizations, qualified for exempt  
17 status under 26 U.S.C. § 501(c)(5), when presenting agricultural fairs, field  
18 days, or festivals, as amended, shall be exempt as follows:

19           (A) The organization first shall have obtained a certificate from the  
20 commissioner stating that it is entitled to the exemption. The commissioner  
21 shall issue a certificate to any organization which has received federal

1 certification of Section 501(c)(3) status and may issue a certificate to any other  
2 qualified organization.

3 (B) Charges for admission to a place of entertainment by and sales to  
4 or uses by such qualified organizations shall be exempt from the tax under this  
5 chapter. Performances jointly produced or presented by a qualified  
6 organization and a nonqualified business or person shall be exempt only if the  
7 qualified organization bears the entire risk of loss of the performance; the  
8 nonqualified business or person does not share in the profits of the  
9 performance; and the qualified organization is primarily responsible for the  
10 collection of all receipts and payment of all expenses associated with the  
11 performance and accounts for the receipts and expenses on its books and  
12 records. Entering into a performance contract with a performing artist or  
13 performing artist's agent, representative, or manager shall not be considered  
14 when determining whether an event is considered jointly produced or  
15 presented, regardless of how compensation to the performing artist, agent,  
16 representative, or manager is determined.

17 (C) Sales other than entertainment charges by qualified Section  
18 501(c)(3) organizations shall be exempt if the organization's gross sales of  
19 tangible personal property and services which would be subject to tax under  
20 this chapter but for this subdivision, in the prior year, did not exceed  
21 \$20,000.00.

