

SECOND REGULAR SESSION

# HOUSE BILL NO. 2140

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOSKINS.

5496H.021

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 32.087, RSMo, and to enact in lieu thereof two new sections relating to local sales tax on motor vehicles.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 32.087, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as section 32.087 and 32.088, to read as follows:

32.087. 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section, and shall be imposed on all transactions on which the Missouri state sales tax is imposed.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 4. The brackets required to be established by the director of revenue under the provisions  
18 of section 144.285 shall be based upon the sum of the combined rate of the state sales tax and  
19 all local sales taxes imposed under the provisions of the local sales tax law.

20 5. (1) The ordinance or order imposing a local sales tax under the local sales tax law  
21 shall impose a tax upon all transactions upon which the Missouri state sales tax is imposed to  
22 the extent and in the manner provided in sections 144.010 to 144.525, and the rules and  
23 regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall  
24 be the sum of the combined rate of the state sales tax or state highway use tax and all local sales  
25 taxes imposed under the provisions of the local sales tax law.

26 (2) Notwithstanding any other provision of law to the contrary, local taxing jurisdictions,  
27 except those in which voters have previously approved a local use tax under section 144.757,  
28 shall have placed on the ballot on or after the general election in November 2014, but no later  
29 than the general election in November [2016] **2022**, whether to repeal application of the local  
30 sales tax to the titling of motor vehicles, trailers, boats, and outboard motors that are subject to  
31 state sales tax under section 144.020 and purchased from a source other than a licensed Missouri  
32 dealer. The ballot question presented to the local voters shall contain substantially the following  
33 language:

34 Shall the ..... (local jurisdiction's name) discontinue applying and collecting the  
35 local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors that were  
36 purchased from a source other than a licensed Missouri dealer?  
37

38 Approval of this measure will result in a reduction of local revenue to provide for vital services  
39 for ..... (local jurisdiction's name) and it will place Missouri dealers of motor vehicles,  
40 outboard motors, boats, and trailers at a competitive disadvantage to non-Missouri dealers of  
41 motor vehicles, outboard motors, boats, and trailers.

42  YES  NO

43  
44 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
45 to the question, place an "X" in the box opposite "NO".

46 (3) If the ballot question set forth in subdivision (2) of this subsection receives a majority  
47 of the votes cast in favor of the proposal, or if the local taxing jurisdiction fails to place the ballot  
48 question before the voters on or before the general election in November [2016] **2022**, the local  
49 taxing jurisdiction shall cease applying the local sales tax to the titling of motor vehicles, trailers,  
50 boats, and outboard motors that were purchased from a source other than a licensed Missouri  
51 dealer.

52 (4) In addition to the requirement that the ballot question set forth in subdivision (2) of  
53 this subsection be placed before the voters, the governing body of any local taxing jurisdiction  
54 that had previously imposed a local use tax on the use of motor vehicles, trailers, boats, and  
55 outboard motors may, at any time, place a proposal on the ballot at any election to repeal  
56 application of the local sales tax to the titling of motor vehicles, trailers, boats, and outboard  
57 motors purchased from a source other than a licensed Missouri dealer.

58 If a majority of the votes cast by the registered voters voting thereon are in favor of the proposal  
59 to repeal application of the local sales tax to such titling, then the local sales tax shall no longer  
60 be applied to the titling of motor vehicles, trailers, boats, and outboard motors purchased from  
61 a source other than a licensed Missouri dealer. If a majority of the votes cast by the registered  
62 voters voting thereon are opposed to the proposal to repeal application of the local sales tax to  
63 such titling, such application shall remain in effect.

64 (5) In addition to the requirement that the ballot question set forth in subdivision (2) of  
65 this subsection be placed before the voters on or after the general election in November 2014,  
66 and on or before the general election in November [2016] **2022**, whenever the governing body  
67 of any local taxing jurisdiction imposing a local sales tax on the sale of motor vehicles, trailers,  
68 boats, and outboard motors receives a petition, signed by fifteen percent of the registered voters  
69 of such jurisdiction voting in the last gubernatorial election, and calling for a proposal to be  
70 placed on the ballot at any election to repeal application of the local sales tax to the titling of  
71 motor vehicles, trailers, boats, and outboard motors purchased from a source other than a  
72 licensed Missouri dealer, the governing body shall submit to the voters of such jurisdiction a  
73 proposal to repeal application of the local sales tax to such titling. If a majority of the votes cast  
74 by the registered voters voting thereon are in favor of the proposal to repeal application of the  
75 local sales tax to such titling, then the local sales tax shall no longer be applied to the titling of  
76 motor vehicles, trailers, boats, and outboard motors purchased from a source other than a  
77 licensed Missouri dealer. If a majority of the votes cast by the registered voters voting thereon  
78 are opposed to the proposal to repeal application of the local sales tax to such titling, such  
79 application shall remain in effect.

80 (6) Nothing in this subsection shall be construed to authorize the voters of any  
81 jurisdiction to repeal application of any state sales or use tax.

82 (7) If any local sales tax on the titling of motor vehicles, trailers, boats, and outboard  
83 motors purchased from a source other than a licensed Missouri dealer is repealed, such repeal  
84 shall take effect on the first day of the second calendar quarter after the election. If any local  
85 sales tax on the titling of motor vehicles, trailers, boats, and outboard motors purchased from a  
86 source other than a licensed Missouri dealer is required to cease to be applied or collected due

87 to failure of a local taxing jurisdiction to hold an election pursuant to subdivision (2) of this  
88 subsection, such cessation shall take effect on March 1, [2017] 2023.

89 **(8) Notwithstanding any provision of law to the contrary, if any local sales tax on**  
90 **the titling of motor vehicles, trailers, boats, and outboard motors purchased from a source**  
91 **other than a licensed Missouri dealer is repealed or if the taxing jurisdiction failed to**  
92 **present the ballot to the voters at a general election on or before the general election in**  
93 **November 2016, then the governing body of such taxing jurisdiction may, at any election**  
94 **subsequent to the repeal, place the issue of imposing a sales tax on the titling of motor**  
95 **vehicles, trailers, boats, and outboard motors that are subject to state sales tax under**  
96 **section 144.020 and that were purchased from a source other than a licensed Missouri**  
97 **dealer. The ballot question presented to the local voters shall contain substantially the**  
98 **following language:**

99

100 **Shall the ..... (local jurisdiction's name) apply and collect the local sales tax on the**  
101 **titling of motor vehicles, trailers, boats, and outboard motors that are subject to state sales**  
102 **tax under section 144.020 and purchased from a source other than a licensed Missouri**  
103 **dealer?**

104

105 **Approval of this measure will result in a increase of local revenue to provide for vital**  
106 **services for ..... (local jurisdiction's name), and it will remove a competitive**  
107 **advantage that non-Missouri dealers of motor vehicles, outboard motors, boats, and**  
108 **trailers have over Missouri dealers of motor vehicles, outboard motors, boats, and trailers.**

109

110  YES  NO

111

112 **If you are in favor of the question, place an "X" in the box opposite "YES". If you are**  
113 **opposed to the question, place an "X" in the box opposite "NO".**

114 **(9) If any local sales tax on the titling of motor vehicles, trailers, boats, and**  
115 **outboard motors purchased from a source other than a licensed Missouri dealer is adopted,**  
116 **such tax shall take effect and be imposed on the first day of the second calendar quarter**  
117 **after the election.**

118 **6. On and after the effective date of any local sales tax imposed under the provisions of**  
119 **the local sales tax law, the director of revenue shall perform all functions incident to the**  
120 **administration, collection, enforcement, and operation of the tax, and the director of revenue**  
121 **shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes**  
122 **authorized under the authority of the local sales tax law. All local sales taxes imposed under the**

123 local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri  
124 shall be collected together and reported upon such forms and under such administrative rules and  
125 regulations as may be prescribed by the director of revenue.

126 7. All applicable provisions contained in sections 144.010 to 144.525 governing the state  
127 sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection  
128 of any local sales tax imposed under the local sales tax law except as modified by the local sales  
129 tax law.

130 8. All exemptions granted to agencies of government, organizations, persons and to the  
131 sale of certain articles and items of tangible personal property and taxable services under the  
132 provisions of sections 144.010 to 144.525, as these sections now read and as they may hereafter  
133 be amended, it being the intent of this general assembly to ensure that the same sales tax  
134 exemptions granted from the state sales tax law also be granted under the local sales tax law, are  
135 hereby made applicable to the imposition and collection of all local sales taxes imposed under  
136 the local sales tax law.

137 9. The same sales tax permit, exemption certificate and retail certificate required by  
138 sections 144.010 to 144.525 for the administration and collection of the state sales tax shall  
139 satisfy the requirements of the local sales tax law, and no additional permit or exemption  
140 certificate or retail certificate shall be required; except that the director of revenue may prescribe  
141 a form of exemption certificate for an exemption from any local sales tax imposed by the local  
142 sales tax law.

143 10. All discounts allowed the retailer under the provisions of the state sales tax law for  
144 the collection of and for payment of taxes under the provisions of the state sales tax law are  
145 hereby allowed and made applicable to any local sales tax collected under the provisions of the  
146 local sales tax law.

147 11. The penalties provided in section 32.057 and sections 144.010 to 144.525 for a  
148 violation of the provisions of those sections are hereby made applicable to violations of the  
149 provisions of the local sales tax law.

150 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under  
151 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard  
152 motors required to be titled under the laws of the state of Missouri, shall be deemed to be  
153 consummated at the place of business of the retailer unless the tangible personal property sold  
154 is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has  
155 more than one place of business in this state which participates in the sale, the sale shall be  
156 deemed to be consummated at the place of business of the retailer where the initial order for the  
157 tangible personal property is taken, even though the order must be forwarded elsewhere for

158 acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall  
159 be deemed to be consummated at the place of business from which he works.

160 (2) For the purposes of any local sales tax imposed by an ordinance or order under the  
161 local sales tax law, the sales tax upon the titling of all motor vehicles, trailers, boats, and  
162 outboard motors shall be imposed at the rate in effect at the location of the residence of the  
163 purchaser, and remitted to that local taxing entity, and not at the place of business of the retailer,  
164 or the place of business from which the retailer's agent or employee works.

165 (3) For the purposes of any local tax imposed by an ordinance or under the local sales  
166 tax law on charges for mobile telecommunications services, all taxes of mobile  
167 telecommunications service shall be imposed as provided in the Mobile Telecommunications  
168 Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

169 13. Local sales taxes shall not be imposed on the seller of motor vehicles, trailers, boats,  
170 and outboard motors required to be titled under the laws of the state of Missouri, but shall be  
171 collected from the purchaser by the director of revenue at the time application is made for a  
172 certificate of title, if the address of the applicant is within a taxing entity imposing a local sales  
173 tax under the local sales tax law.

174 14. The director of revenue and any of his deputies, assistants and employees who have  
175 any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,  
176 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the  
177 director of revenue under the provisions of the local sales tax law shall enter a surety bond or  
178 bonds payable to any and all taxing entities in whose behalf such funds have been collected  
179 under the local sales tax law in the amount of one hundred thousand dollars for each such tax;  
180 but the director of revenue may enter into a blanket bond covering himself and all such deputies,  
181 assistants and employees. The cost of any premium for such bonds shall be paid by the director  
182 of revenue from the share of the collections under the sales tax law retained by the director of  
183 revenue for the benefit of the state.

184 15. The director of revenue shall annually report on his management of each trust fund  
185 which is created under the local sales tax law and administration of each local sales tax imposed  
186 under the local sales tax law. He shall provide each taxing entity imposing one or more local  
187 sales taxes authorized by the local sales tax law with a detailed accounting of the source of all  
188 funds received by him for the taxing entity. Notwithstanding any other provisions of law, the  
189 state auditor shall annually audit each trust fund. A copy of the director's report and annual audit  
190 shall be forwarded to each taxing entity imposing one or more local sales taxes.

191 16. Within the boundaries of any taxing entity where one or more local sales taxes have  
192 been imposed, if any person is delinquent in the payment of the amount required to be paid by  
193 him under the local sales tax law or in the event a determination has been made against him for

194 taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection  
195 of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to  
196 144.525. Where the director of revenue has determined that suit must be filed against any person  
197 for the collection of delinquent taxes due the state under the state sales tax law, and where such  
198 person is also delinquent in payment of taxes under the local sales tax law, the director of  
199 revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount  
200 of any local sales tax due so that appropriate action may be taken by the taxing entity.

201 17. Where property is seized by the director of revenue under the provisions of any law  
202 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed  
203 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax  
204 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join  
205 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing  
206 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums  
207 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

208 18. If a local sales tax has been in effect for at least one year under the provisions of the  
209 local sales tax law and voters approve reimposition of the same local sales tax at the same rate  
210 at an election as provided for in the local sales tax law prior to the date such tax is due to expire,  
211 the tax so reimposed shall become effective the first day of the first calendar quarter after the  
212 director receives a certified copy of the ordinance, order or resolution accompanied by a map  
213 clearly showing the boundaries thereof and the results of such election, provided that such  
214 ordinance, order or resolution and all necessary accompanying materials are received by the  
215 director at least thirty days prior to the expiration of such tax. Any administrative cost or  
216 expense incurred by the state as a result of the provisions of this subsection shall be paid by the  
217 city or county reimposing such tax.

**32.088. 1. There is hereby created the "Missouri Task Force on Fair,  
2 Nondiscriminatory Local Taxation Concerning Motor Vehicles, Trailers, Boats, and  
3 Outboard Motors" to consist of the following members:**

**4 (1) The following six members of the general assembly:**

**5 (a) Three members of the house of representatives, with each member to be  
6 appointed by the speaker of the house of representatives; and**

**7 (b) Three members of the senate, with each member to be appointed by the  
8 president pro tempore of the senate;**

**9 (2) The director of the department of revenue or the director's designee;**

**10 (3) Two Missouri motor vehicle dealers, with one to be appointed by the speaker  
11 of the house of representatives and one to be appointed by the president pro tempore of the  
12 senate;**

13           (4) Two representatives from Missouri county governments, with one to be  
14 appointed by the speaker of the house of representatives and one to be appointed by the  
15 president pro tempore of the senate;

16           (5) Two representatives from Missouri city governments, with one to be appointed  
17 by the speaker of the house of representatives and one to be appointed by the president pro  
18 tempore of the senate; and

19           (6) One Missouri marine dealer, to be appointed by the speaker of the house of  
20 representatives.

21           2. The task force shall meet within thirty days after its creation and organize by  
22 selecting a chair and a vice chair, one of whom shall be a member of the senate and the  
23 other of whom shall be a member of the house of representatives. The chair shall designate  
24 a person to keep the records of the task force. A majority of the task force constitutes a  
25 quorum and a majority vote of a quorum is required for any action.

26           3. The task force shall meet at least quarterly. However, the task force shall meet  
27 at least monthly during each term of the general assembly. Meetings may be held by  
28 telephone or video conference at the discretion of the chair.

29           4. Members shall serve on the task force without compensation but may, subject  
30 to appropriation, be reimbursed for actual and necessary expenses incurred in the  
31 performance of their official duties as members of the task force.

32           5. The goals of the task force shall address:

33           (1) The disparity in taxation that resulted from the Missouri Supreme Court's  
34 decision in *Street v. Director of Revenue*, 361 S.W.3d 355 (Mo. 2012)(en banc), concerning  
35 the local taxation of motor vehicles, boats, trailers, and outboard motors if purchased from  
36 a source other than a licensed Missouri dealer;

37           (2) The need for local jurisdictions to continue to receive revenue to provide vital  
38 services restored by S.B. 23, effective July 5, 2013; and

39           (3) The need to avoid placing Missouri dealers of motor vehicles, outboard motors,  
40 boats, and trailers at a competitive disadvantage to non-Missouri dealers of motor vehicles,  
41 outboard motors, boats, and trailers;

42           6. The task force shall:

43           (1) Review evidence regarding the methods to address the goals of the task force;

44           (2) Review the methods used by other states to address the goals of the task force;

45           (3) Review the impact of the disparity of treatment on Missouri dealers; and

46           (4) Develop legislation that will not discriminate against Missouri dealers and will  
47 safeguard local revenue to provide vital local services.



48           **7. On or before December 31, 2018, the task force shall submit a report on its**  
49 **findings to the governor and general assembly. The report shall include any dissenting**  
50 **opinions in addition to any majority opinions.**

51           **8. The task force shall expire on January 1, 2019, or upon submission of a report**  
52 **under subsection 7 of this section, whichever is earlier.**

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