

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2140

98TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, March 3, 2016, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

5496S.04C

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.

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Section A. Section 32.087, RSMo, is repealed and two new sections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

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

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

12 3. Every retailer within the jurisdiction of one or more taxing entities
13 which has imposed one or more local sales taxes under the local sales tax law
14 shall add all taxes so imposed along with the tax imposed by the sales tax law of
15 the state of Missouri to the sale price and, when added, the combined tax shall
16 constitute a part of the price, and shall be a debt of the purchaser to the retailer

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 until paid, and shall be recoverable at law in the same manner as the purchase
18 price. The combined rate of the state sales tax and all local sales taxes shall be
19 the sum of the rates, multiplying the combined rate times the amount of the sale.

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

24 5. (1) The ordinance or order imposing a local sales tax under the local
25 sales tax law shall impose a tax upon all transactions upon which the Missouri
26 state sales tax is imposed to the extent and in the manner provided in sections
27 144.010 to 144.525, and the rules and regulations of the director of revenue
28 issued pursuant thereto; except that the rate of the tax shall be the sum of the
29 combined rate of the state sales tax or state highway use tax and all local sales
30 taxes imposed under the provisions of the local sales tax law.

31 (2) Notwithstanding any other provision of law to the contrary, local
32 taxing jurisdictions, except those in which voters have [previously] approved a
33 local use tax under section 144.757, shall have placed on the ballot on or after the
34 general election in November 2014, but no later than the general election in
35 November [2016] **2020**, whether to repeal application of the local sales tax to the
36 titling of motor vehicles, trailers, boats, and outboard motors that are subject to
37 state sales tax under section 144.020 and purchased from a source other than a
38 licensed Missouri dealer. The ballot question presented to the local voters shall
39 contain substantially the following language:

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

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

49 YES NO

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

52 (3) If the ballot question set forth in subdivision (2) of this subsection

53 receives a majority of the votes cast in favor of the proposal, or if the local taxing
54 jurisdiction fails to place the ballot question before the voters on or before the
55 general election in November [2016] **2020**, the local taxing jurisdiction shall cease
56 applying the local sales tax to the titling of motor vehicles, trailers, boats, and
57 outboard motors that were purchased from a source other than a licensed
58 Missouri dealer.

59 (4) In addition to the requirement that the ballot question set forth in
60 subdivision (2) of this subsection be placed before the voters, the governing body
61 of any local taxing jurisdiction that had previously imposed a local use tax on the
62 use of motor vehicles, trailers, boats, and outboard motors may, at any time, place
63 a proposal on the ballot at any election to repeal application of the local sales tax
64 to the titling of motor vehicles, trailers, boats, and outboard motors purchased
65 from a source other than a licensed Missouri dealer. If a majority of the votes
66 cast by the registered voters voting thereon are in favor of the proposal to repeal
67 application of the local sales tax to such titling, then the local sales tax shall no
68 longer be applied to the titling of motor vehicles, trailers, boats, and outboard
69 motors purchased from a source other than a licensed Missouri dealer. If a
70 majority of the votes cast by the registered voters voting thereon are opposed to
71 the proposal to repeal application of the local sales tax to such titling, such
72 application shall remain in effect.

73 (5) In addition to the requirement that the ballot question set forth in
74 subdivision (2) of this subsection be placed before the voters on or after the
75 general election in November 2014, and on or before the general election in
76 November [2016] **2020**, whenever the governing body of any local taxing
77 jurisdiction imposing a local sales tax on the sale of motor vehicles, trailers,
78 boats, and outboard motors receives a petition, signed by fifteen percent of the
79 registered voters of such jurisdiction voting in the last gubernatorial election, and
80 calling for a proposal to be placed on the ballot at any election to repeal
81 application of the local sales tax to the titling of motor vehicles, trailers, boats,
82 and outboard motors purchased from a source other than a licensed Missouri
83 dealer, the governing body shall submit to the voters of such jurisdiction a
84 proposal to repeal application of the local sales tax to such titling. If a majority
85 of the votes cast by the registered voters voting thereon are in favor of the
86 proposal to repeal application of the local sales tax to such titling, then the local
87 sales tax shall no longer be applied to the titling of motor vehicles, trailers, boats,
88 and outboard motors purchased from a source other than a licensed Missouri

89 dealer. If a majority of the votes cast by the registered voters voting thereon are
90 opposed to the proposal to repeal application of the local sales tax to such titling,
91 such application shall remain in effect.

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

94 (7) If any local sales tax on the titling of motor vehicles, trailers, boats,
95 and outboard motors purchased from a source other than a licensed Missouri
96 dealer is repealed, such repeal shall take effect on the first day of the second
97 calendar quarter after the election. If any local sales tax on the titling of motor
98 vehicles, trailers, boats, and outboard motors purchased from a source other than
99 a licensed Missouri dealer is required to cease to be applied or collected due to
100 failure of a local taxing jurisdiction to hold an election pursuant to subdivision
101 (2) of this subsection, such cessation shall take effect on March 1, [2017] 2021.

102 (8) **Notwithstanding any provision of law to the contrary, if any**
103 **local sales tax on the titling of motor vehicles, trailers, boats, and**
104 **outboard motors purchased from a source other than a licensed**
105 **Missouri dealer is repealed after the general election in November 2014,**
106 **or if the taxing jurisdiction failed to present the ballot to the voters at**
107 **a general election on or before November 2020, then the governing body**
108 **of such taxing jurisdiction may, at any election subsequent to the**
109 **repeal or after the general election in November 2020, if the**
110 **jurisdiction failed to present the ballot to the voters, place before the**
111 **voters the issue of imposing a sales tax on the titling of motor vehicles,**
112 **trailers, boats, and outboard motors that are subject to state sales tax**
113 **under section 144.020 that were purchased from a source other than a**
114 **licensed Missouri dealer. The ballot question presented to the local**
115 **voters shall contain substantially the following language:**

116 **Shall the (local jurisdiction's name) apply and collect the**
117 **local sales tax on the titling of motor vehicles, trailers, boats, and**
118 **outboard motors that are subject to state sales tax under section**
119 **144.020 and purchased from a source other than a licensed Missouri**
120 **dealer?**

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

125 **dealers of motor vehicles, outboard motors, boats, and trailers.**

126 YES NO

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

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

135 6. On and after the effective date of any local sales tax imposed under the
136 provisions of the local sales tax law, the director of revenue shall perform all
137 functions incident to the administration, collection, enforcement, and operation
138 of the tax, and the director of revenue shall collect in addition to the sales tax for
139 the state of Missouri all additional local sales taxes authorized under the
140 authority of the local sales tax law. All local sales taxes imposed under the local
141 sales tax law together with all taxes imposed under the sales tax law of the state
142 of Missouri shall be collected together and reported upon such forms and under
143 such administrative rules and regulations as may be prescribed by the director
144 of revenue.

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

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

157 9. The same sales tax permit, exemption certificate and retail certificate
158 required by sections 144.010 to 144.525 for the administration and collection of
159 the state sales tax shall satisfy the requirements of the local sales tax law, and
160 no additional permit or exemption certificate or retail certificate shall be

161 required; except that the director of revenue may prescribe a form of exemption
162 certificate for an exemption from any local sales tax imposed by the local sales tax
163 law.

164 10. All discounts allowed the retailer under the provisions of the state
165 sales tax law for the collection of and for payment of taxes under the provisions
166 of the state sales tax law are hereby allowed and made applicable to any local
167 sales tax collected under the provisions of the local sales tax law.

168 11. The penalties provided in section 32.057 and sections 144.010 to
169 144.525 for a violation of the provisions of those sections are hereby made
170 applicable to violations of the provisions of the local sales tax law.

171 12. (1) For the purposes of any local sales tax imposed by an ordinance
172 or order under the local sales tax law, all sales, except the sale of motor vehicles,
173 trailers, boats, and outboard motors required to be titled under the laws of the
174 state of Missouri, shall be deemed to be consummated at the place of business of
175 the retailer unless the tangible personal property sold is delivered by the retailer
176 or his agent to an out-of-state destination. In the event a retailer has more than
177 one place of business in this state which participates in the sale, the sale shall
178 be deemed to be consummated at the place of business of the retailer where the
179 initial order for the tangible personal property is taken, even though the order
180 must be forwarded elsewhere for acceptance, approval of credit, shipment or
181 billing. A sale by a retailer's agent or employee shall be deemed to be
182 consummated at the place of business from which he works.

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

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

194 13. Local sales taxes shall not be imposed on the seller of motor vehicles,
195 trailers, boats, and outboard motors required to be titled under the laws of the
196 state of Missouri, but shall be collected from the purchaser by the director of

197 revenue at the time application is made for a certificate of title, if the address of
198 the applicant is within a taxing entity imposing a local sales tax under the local
199 sales tax law.

200 14. The director of revenue and any of his deputies, assistants and
201 employees who have any duties or responsibilities in connection with the
202 collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting,
203 or recording of funds which come into the hands of the director of revenue under
204 the provisions of the local sales tax law shall enter a surety bond or bonds
205 payable to any and all taxing entities in whose behalf such funds have been
206 collected under the local sales tax law in the amount of one hundred thousand
207 dollars for each such tax; but the director of revenue may enter into a blanket
208 bond covering himself and all such deputies, assistants and employees. The cost
209 of any premium for such bonds shall be paid by the director of revenue from the
210 share of the collections under the sales tax law retained by the director of
211 revenue for the benefit of the state.

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

221 16. Within the boundaries of any taxing entity where one or more local
222 sales taxes have been imposed, if any person is delinquent in the payment of the
223 amount required to be paid by him under the local sales tax law or in the event
224 a determination has been made against him for taxes and penalty under the local
225 sales tax law, the limitation for bringing suit for the collection of the delinquent
226 tax and penalty shall be the same as that provided in sections 144.010 to
227 144.525. Where the director of revenue has determined that suit must be filed
228 against any person for the collection of delinquent taxes due the state under the
229 state sales tax law, and where such person is also delinquent in payment of taxes
230 under the local sales tax law, the director of revenue shall notify the taxing entity
231 in the event any person fails or refuses to pay the amount of any local sales tax
232 due so that appropriate action may be taken by the taxing entity.

233 17. Where property is seized by the director of revenue under the
234 provisions of any law authorizing seizure of the property of a taxpayer who is
235 delinquent in payment of the tax imposed by the state sales tax law, and where
236 such taxpayer is also delinquent in payment of any tax imposed by the local sales
237 tax law, the director of revenue shall permit the taxing entity to join in any sale
238 of property to pay the delinquent taxes and penalties due the state and to the
239 taxing entity under the local sales tax law. The proceeds from such sale shall
240 first be applied to all sums due the state, and the remainder, if any, shall be
241 applied to all sums due such taxing entity.

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

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

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

6 **(a) Three members of the house of representatives, with no more
7 than two members from the same political party and each member to
8 be appointed by the speaker of the house of representatives; and**

9 **(b) Three members of the senate, with no more than two
10 members from the same political party and each member to be
11 appointed by the president pro tempore of the senate;**

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

14 **(3) Two Missouri motor vehicle dealers, with one to be appointed
15 by the speaker of the house of representatives and one to be appointed**

16 by the president pro tempore of the senate;

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

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

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

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

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

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

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

41 (1) The disparity in taxation that resulted from the Missouri
42 Supreme Court's decision in *Street v. Director of Revenue*, 361 S.W.3d
43 355 (Mo. 2012)(en banc), concerning the local taxation of motor vehicles,
44 boats, trailers, and outboard motors if purchased from a source other
45 than a licensed Missouri dealer;

46 (2) The need for local jurisdictions to continue to receive
47 revenue to provide vital services restored by S.B. 23, effective July 5,
48 2013; and

49 (3) The need to avoid placing Missouri dealers of motor vehicles,
50 outboard motors, boats, and trailers at a competitive disadvantage to
51 non-Missouri dealers of motor vehicles, outboard motors, boats, and
52 trailers.

53 **6. The task force shall:**

54 **(1) Review evidence regarding the methods to address the goals**
55 **of the task force;**

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

58 **(3) Review the impact of the disparity of treatment on Missouri**
59 **dealers; and**

60 **(4) Develop legislation that will not discriminate against**
61 **Missouri dealers and will safeguard local revenue to provide vital local**
62 **services.**

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

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

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