



GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
GOVERNOR

P.O. Box 720  
(573) 751-3222

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TO THE SECRETARY OF THE SENATE  
97<sup>TH</sup> GENERAL ASSEMBLY  
FIRST REGULAR SESSION  
STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 entitled:

AN ACT

To repeal sections 32.087, 144.020, 144.021, 144.069, 144.071, 144.440, 144.450, 144.455, 144.525, 144.610, 144.613, and 144.615, RSMo, and to enact in lieu thereof thirteen new sections relating to taxes on motor vehicle sales, with an emergency clause.

I disapprove of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182. My reasons for disapproval are as follows:

House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 is intended to address the Missouri Supreme Court's 2012 decision in *Street v. Director of Revenue*. In that case, the Supreme Court held that a local sales tax could not be collected on the out-of-state purchase of motor vehicles, boats, trailers and outboard motors ("vehicles"). Instead, the Court found that such transactions were, under existing law, subject to a local use tax.

The *Street* decision does not affect cities and counties where voters have approved a local use tax; however, jurisdictions without a local use tax have been unable to collect taxes on out-of-state vehicle purchases as well as non-retail ("private") vehicle transactions. As a result, associated revenues have since declined in those jurisdictions and auto dealers – particularly those situated near our borders – have experienced a decline in sales because more customers are buying from out-of-state dealers in order to avoid local taxes.

The General Assembly first attempted to address the *Street* decision last session with passage of Senate Substitute for House Committee Substitute for House Bill No. 1329. I vetoed that legislation for two fundamental reasons: (1) it circumvented the authority of local voters to

approve matters concerning local taxation; and (2) it imposed the tax retroactively on already completed transactions. House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 again seeks to restore the collection of local tax revenues to pre-*Street* amounts and to level the playing field for Missouri auto dealers. Both of these goals are understandable. And, consistent with my veto message from last year, House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 would not retroactively tax transactions and, appropriately, does mandate a vote in jurisdictions that have not previously passed a local use tax.

### **Mandated Local Referendum Too Narrow**

Unfortunately, the mandated local vote, as written in House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182, does not cover the full breadth of the expanded local sales tax. Rather, the referendum only permits voters in jurisdictions without a local use tax to repeal the sales tax on vehicles “purchased from vendors not located in Missouri”; it would not enable voters to repeal the local sales tax on non-retail (“private”) sales.

Regardless of whether this oversight was intentional or inadvertent, it is significant. In 2012, there were 112,000 vehicles purchased from out-of-state dealers. During that same time, non-retail sales exceeded that number by nearly six times (approx. 650,000). Therefore, while requiring a referendum properly recognizes that local voters should approve matters concerning local taxation, the mandated referendum would not apply to 85% of the transactions that would become subject to the local sales tax as the result of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182.

Voter participation in determining local tax policy was central to my prior veto of Senate Substitute for House Committee Substitute for House Bill No. 1329 and is again the focus of my action today. If a local tax is going to be imposed – even one that was previously collected prior to the *Street* decision – voter involvement must be our guiding principle. Denying the voters the ability to be heard on the entire scope of this tax is unacceptable and requires my disapproval.

### **Jeopardizes Local Sales Tax Revenues**

As previously acknowledged, the partial impetus behind House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 was to put local taxing jurisdictions in the position they were in prior to the *Street* decision. And the General Assembly was correct to provide voters in these jurisdictions with the opportunity to repeal this extension of the local sales tax. However, the General Assembly, perhaps unwittingly, used language that places counties and municipalities in jeopardy of losing even greater sales tax revenue. The perilous language, contained in the proposed Sec. 32.087.5(5), RSMo, would direct the governing body of a local taxing jurisdiction – that imposes a local sales tax on vehicle sales – to place a proposal on the ballot to repeal the application of the “local sales tax to such titling” if it receives a petition calling for such a proposal.

This language is problematic. Because all vehicle sales would be taxed upon titling under House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182, local voters

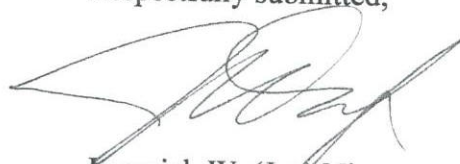
could not repeal the local sales tax on out-of-state and non-retail vehicle transactions under the proposed Sec. 32.087.5(5), RSMo, without repealing the local sales tax on all vehicle transactions, including vehicles purchased in-state at retail.

Again, inadvertent or not, this would result in a loss of local revenue in an amount that would dwarf the economic impact caused by the *Street* decision, and would significantly hamper the ability of counties and cities to fund and perform critical functions and services. What's more, in the event the titling tax is repealed by a majority of voters, there would be no mechanism to allow voters to reinstate the tax on all or even a portion of vehicle transactions.

### **Conclusion**

It is noted that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182 is an effort to address both the *Street* decision's economic impact on Missouri car dealers and local taxing jurisdictions as well as the principled objections concerning voter approval and retroactivity that I laid out in my veto message of Senate Substitute for House Committee Substitute for House Bill No. 1329. However, it falls short in both regards. The mandated referendum extends voters the opportunity to disapprove only a portion of the expanded local sales tax, and the repeal language put forth in Sec. 32.087.5(5) fails to parse transactions already covered by the local sales tax law from those that would be imposed by House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182, haphazardly placing counties and cities at risk of losing an even greater amount of local revenue. Because these are significant concerns, I disapprove of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 182.

Respectfully submitted,



Jeremiah W. (Jay) Nixon  
Governor