

FIRST REGULAR SESSION

SENATE BILL NO. 149

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0293S.011

AN ACT

To repeal section 32.087, RSMo, and to enact in lieu thereof one new section relating to local sales taxes.

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

Section A. Section 32.087, RSMo, is repealed and one new section enacted
2 in lieu thereof, to be known as section 32.087, to read as 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. **(1)** 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
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.

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

20 **(2) For all tax years beginning on or after January 1, 2020, the**
21 **total combined rate of sales taxes under the local sales tax law for any**
22 **given taxing jurisdiction shall not exceed seven and two hundred**
23 **seventy-five thousandths percent, provided that no transient guest tax**
24 **shall be considered a local sales tax under the local sales tax law.**

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

29 5. (1) The ordinance or order imposing a local sales tax under the local
30 sales tax law shall impose a tax upon all transactions upon which the Missouri
31 state sales tax is imposed to the extent and in the manner provided in sections
32 144.010 to 144.525, and the rules and regulations of the director of revenue
33 issued pursuant thereto; except that the rate of the tax shall be the sum of the
34 combined rate of the state sales tax or state highway use tax and all local sales
35 taxes imposed under the provisions of the local sales tax law.

36 (2) Notwithstanding any other provision of law to the contrary, local
37 taxing jurisdictions, except those in which voters have approved a local use tax
38 under section 144.757, shall have placed on the ballot on or after the general
39 election in November 2014, but no later than the general election in November
40 2022, whether to repeal application of the local sales tax to the titling of motor
41 vehicles, trailers, boats, and outboard motors that are subject to state sales tax
42 under section 144.020 and purchased from a source other than a licensed
43 Missouri dealer. The ballot question presented to the local voters shall contain
44 substantially the following language:

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

49 Approval of this measure will result in a reduction of local revenue
50 to provide for vital services for _____ (local jurisdiction's name)
51 and it will place Missouri dealers of motor vehicles, outboard
52 motors, boats, and trailers at a competitive disadvantage to
53 non-Missouri dealers of motor vehicles, outboard motors, boats, and
54 trailers.

55

YES

NO

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

59 (3) If the ballot question set forth in subdivision (2) of this subsection
60 receives a majority of the votes cast in favor of the proposal, or if the local taxing
61 jurisdiction fails to place the ballot question before the voters on or before the
62 general election in November 2022, the local taxing jurisdiction shall cease
63 applying the local sales tax to the titling of motor vehicles, trailers, boats, and
64 outboard motors that were purchased from a source other than a licensed
65 Missouri dealer.

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

80 (5) In addition to the requirement that the ballot question set forth in
81 subdivision (2) of this subsection be placed before the voters on or after the
82 general election in November 2014, and on or before the general election in
83 November 2022, whenever the governing body of any local taxing jurisdiction
84 imposing a local sales tax on the sale of motor vehicles, trailers, boats, and
85 outboard motors receives a petition, signed by fifteen percent of the registered
86 voters of such jurisdiction voting in the last gubernatorial election, and calling
87 for a proposal to be placed on the ballot at any election to repeal application of
88 the local sales tax to the titling of motor vehicles, trailers, boats, and outboard
89 motors purchased from a source other than a licensed Missouri dealer, the
90 governing body shall submit to the voters of such jurisdiction a proposal to repeal
91 application of the local sales tax to such titling. If a majority of the votes cast by

92 the registered voters voting thereon are in favor of the proposal to repeal
93 application of the local sales tax to such titling, then the local sales tax shall no
94 longer be applied to the titling of motor vehicles, trailers, boats, and outboard
95 motors purchased from a source other than a licensed Missouri dealer. If a
96 majority of the votes cast by the registered voters voting thereon are opposed to
97 the proposal to repeal application of the local sales tax to such titling, such
98 application shall remain in effect.

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

101 (7) If any local sales tax on the titling of motor vehicles, trailers, boats,
102 and outboard motors purchased from a source other than a licensed Missouri
103 dealer is repealed, such repeal shall take effect on the first day of the second
104 calendar quarter after the election. If any local sales tax on the titling of motor
105 vehicles, trailers, boats, and outboard motors purchased from a source other than
106 a licensed Missouri dealer is required to cease to be applied or collected due to
107 failure of a local taxing jurisdiction to hold an election pursuant to subdivision
108 (2) of this subsection, such cessation shall take effect on March 1, 2023.

109 (8) Notwithstanding any provision of law to the contrary, if any local sales
110 tax on the titling of motor vehicles, trailers, boats, and outboard motors
111 purchased from a source other than a licensed Missouri dealer is repealed after
112 the general election in November 2014, or if the taxing jurisdiction failed to
113 present the ballot to the voters at a general election on or before November 2022,
114 then the governing body of such taxing jurisdiction may, at any election
115 subsequent to the repeal or after the general election in November 2022, if the
116 jurisdiction failed to present the ballot to the voters, place before the voters the
117 issue of imposing a sales tax on the titling of motor vehicles, trailers, boats, and
118 outboard motors that are subject to state sales tax under section 144.020 that
119 were purchased from a source other than a licensed Missouri dealer. The ballot
120 question presented to the local voters shall contain substantially the following
121 language:

122 Shall the _____ (local jurisdiction's name) apply and collect the
123 local sales tax on the titling of motor vehicles, trailers, boats, and
124 outboard motors that are subject to state sales tax under section
125 144.020 and purchased from a source other than a licensed
126 Missouri dealer?

127 Approval of this measure will result in an increase of local revenue to

128 provide for vital services for _____ (local jurisdiction's name),
129 and it will remove a competitive advantage that non-Missouri
130 dealers of motor vehicles, outboard motors, boats, and trailers have
131 over Missouri dealers of motor vehicles, outboard motors, boats,
132 and trailers.

133 YES NO

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

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

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

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

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

163 9. The same sales tax permit, exemption certificate and retail certificate

164 required by sections 144.010 to 144.525 for the administration and collection of
165 the state sales tax shall satisfy the requirements of the local sales tax law, and
166 no additional permit or exemption certificate or retail certificate shall be
167 required; except that the director of revenue may prescribe a form of exemption
168 certificate for an exemption from any local sales tax imposed by the local sales tax
169 law.

170 10. All discounts allowed the retailer under the provisions of the state
171 sales tax law for the collection of and for payment of taxes under the provisions
172 of the state sales tax law are hereby allowed and made applicable to any local
173 sales tax collected under the provisions of the local sales tax law.

174 11. The penalties provided in section 32.057 and sections 144.010 to
175 144.525 for a violation of the provisions of those sections are hereby made
176 applicable to violations of the provisions of the local sales tax law.

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

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

195 (3) For the purposes of any local tax imposed by an ordinance or under the
196 local sales tax law on charges for mobile telecommunications services, all taxes
197 of mobile telecommunications service shall be imposed as provided in the Mobile
198 Telecommunications Sourcing Act, 4 U.S.C. Sections [116 through 124] **116 to**
199 **124**, as amended.

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

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

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

227 16. Within the boundaries of any taxing entity where one or more local
228 sales taxes have been imposed, if any person is delinquent in the payment of the
229 amount required to be paid by him under the local sales tax law or in the event
230 a determination has been made against him for taxes and penalty under the local
231 sales tax law, the limitation for bringing suit for the collection of the delinquent
232 tax and penalty shall be the same as that provided in sections 144.010 to
233 144.525. Where the director of revenue has determined that suit must be filed
234 against any person for the collection of delinquent taxes due the state under the
235 state sales tax law, and where such person is also delinquent in payment of taxes

236 under the local sales tax law, the director of revenue shall notify the taxing entity
237 in the event any person fails or refuses to pay the amount of any local sales tax
238 due so that appropriate action may be taken by the taxing entity.

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

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

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