

SECOND REGULAR SESSION

# HOUSE BILL NO. 2809

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CIERPIOT.

6884H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

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

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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Section A. Section 32.087, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 32.087, to read as follows: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 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, whether to repeal application of the local sales tax  
30 to the titling of motor vehicles, trailers, boats, and outboard motors that are subject to state sales  
31 tax under section 144.020 and purchased from a source other than a licensed Missouri dealer.  
32 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, the local taxing  
49 jurisdiction shall cease applying the local sales tax to the titling of motor vehicles, trailers, boats,  
50 and outboard motors that were purchased from [a] **any** 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. If a majority of the votes  
58 cast by the registered voters voting thereon are in favor of the proposal to repeal application of  
59 the local sales tax to such titling, then the local sales tax shall no longer be applied to the titling  
60 of motor vehicles, trailers, boats, and outboard motors purchased from [a] **any** source [other than  
61 a licensed Missouri dealer]. If a majority of the votes cast by the registered voters voting thereon  
62 are opposed to the proposal to repeal application of the local sales tax to such titling, such  
63 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, whenever the governing body of any  
67 local taxing jurisdiction imposing a local sales tax on the sale of motor vehicles, trailers, boats,  
68 and outboard motors receives a petition, signed by fifteen percent of the registered voters of such  
69 jurisdiction voting in the last gubernatorial election, and calling for a proposal to be placed on  
70 the ballot at any election to repeal application of the local sales tax to the titling of motor  
71 vehicles, trailers, boats, and outboard motors purchased from a source other than a licensed  
72 Missouri dealer, the governing body shall submit to the voters of such jurisdiction a proposal to  
73 repeal application of the local sales tax to such titling. If a majority of the votes cast by the  
74 registered voters voting thereon are in favor of the proposal to repeal application of the local  
75 sales tax to such titling, then the local sales tax shall no longer be applied to the titling of motor  
76 vehicles, trailers, boats, and outboard motors purchased from [a] **any** 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.

89           6. On and after the effective date of any local sales tax imposed under the provisions of  
90 the local sales tax law, the director of revenue shall perform all functions incident to the  
91 administration, collection, enforcement, and operation of the tax, and the director of revenue  
92 shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes  
93 authorized under the authority of the local sales tax law. All local sales taxes imposed under the  
94 local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri  
95 shall be collected together and reported upon such forms and under such administrative rules and  
96 regulations as may be prescribed by the director of revenue.

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

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

108           9. The same sales tax permit, exemption certificate and retail certificate required by  
109 sections 144.010 to 144.525 for the administration and collection of the state sales tax shall  
110 satisfy the requirements of the local sales tax law, and no additional permit or exemption  
111 certificate or retail certificate shall be required; except that the director of revenue may prescribe  
112 a form of exemption certificate for an exemption from any local sales tax imposed by the local  
113 sales tax law.

114           10. All discounts allowed the retailer under the provisions of the state sales tax law for  
115 the collection of and for payment of taxes under the provisions of the state sales tax law are  
116 hereby allowed and made applicable to any local sales tax collected under the provisions of the  
117 local sales tax law.

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

121           12. (1) For the purposes of any local sales tax imposed by an ordinance or order under  
122 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard

123 motors required to be titled under the laws of the state of Missouri, shall be deemed to be  
124 consummated at the place of business of the retailer unless the tangible personal property sold  
125 is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has  
126 more than one place of business in this state which participates in the sale, the sale shall be  
127 deemed to be consummated at the place of business of the retailer where the initial order for the  
128 tangible personal property is taken, even though the order must be forwarded elsewhere for  
129 acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall  
130 be deemed to be consummated at the place of business from which he works.

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

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

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

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

155 15. The director of revenue shall annually report on his management of each trust fund  
156 which is created under the local sales tax law and administration of each local sales tax imposed  
157 under the local sales tax law. He shall provide each taxing entity imposing one or more local  
158 sales taxes authorized by the local sales tax law with a detailed accounting of the source of all

159 funds received by him for the taxing entity. Notwithstanding any other provisions of law, the  
160 state auditor shall annually audit each trust fund. A copy of the director's report and annual audit  
161 shall be forwarded to each taxing entity imposing one or more local sales taxes.

162         16. Within the boundaries of any taxing entity where one or more local sales taxes have  
163 been imposed, if any person is delinquent in the payment of the amount required to be paid by  
164 him under the local sales tax law or in the event a determination has been made against him for  
165 taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection  
166 of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to  
167 144.525. Where the director of revenue has determined that suit must be filed against any person  
168 for the collection of delinquent taxes due the state under the state sales tax law, and where such  
169 person is also delinquent in payment of taxes under the local sales tax law, the director of  
170 revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount  
171 of any local sales tax due so that appropriate action may be taken by the taxing entity.

172         17. Where property is seized by the director of revenue under the provisions of any law  
173 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed  
174 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax  
175 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join  
176 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing  
177 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums  
178 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

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

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