

FIRST REGULAR SESSION

HOUSE BILL NO. 1249

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

2616H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.087, 144.525, 144.610, and 144.757, RSMo, and to enact in lieu thereof four new sections relating to sales and use tax.

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

Section A. Sections 32.087, 144.525, 144.610, and 144.757, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 32.087, 144.525, 144.610, and
3 144.757, to read as follows:

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

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

10 3. Every retailer within the jurisdiction of one or more taxing entities which has imposed
11 one or more local sales taxes under the local sales tax law shall add all taxes so imposed along
12 with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when
13 added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser
14 to the retailer until paid, and shall be recoverable at law in the same manner as the purchase
15 price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the
16 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
43 YES NO

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

47 (3) If the ballot question set forth in subdivision (2) of this subsection receives a majority
48 of the votes cast in favor of the proposal, or if the local taxing jurisdiction fails to place the ballot
49 question before the voters on or before the general election in November 2016, the local taxing
50 jurisdiction shall cease applying the local sales tax to the titling of motor vehicles, trailers, boats,
51 and outboard motors that were purchased from a source other than a licensed Missouri dealer
52 **and shall not apply the local sales tax to the titling of motor vehicles, trailers, boats, or**

53 **outboard motors that were purchased from a source other than a licensed Missouri dealer**
 54 **unless the governing body of the local taxing jurisdiction has submitted to the qualified**
 55 **voters of the taxing jurisdiction a proposal to authorize the taxing jurisdiction to apply and**
 56 **collect such tax and the proposal is approved by a majority of the voters voting on the**
 57 **proposal. The ballot of submission shall be in substantially the following form:**

58 **Shall the (local jurisdiction’s name) apply and collect the local sales tax**
 59 **on the titling of motor vehicles, trailers, boats, and outboard motors that were purchased**
 60 **from a source other than a licensed Missouri dealer?**

61

62

YES NO

63

64 **If you are in favor of the question, place an “X” in the box opposite “YES”. If you are**
 65 **opposed to the question, place an “X” in the box opposite “NO”.**

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

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

78 (5) In addition to the requirement that the ballot question set forth in subdivision (2) of
 79 this subsection be placed before the voters on or after the general election in November 2014,
 80 and on or before the general election in November 2016, whenever the governing body of any
 81 local taxing jurisdiction imposing a local sales tax on the sale of motor vehicles, trailers, boats,
 82 and outboard motors receives a petition, signed by fifteen percent of the registered voters of such
 83 jurisdiction voting in the last gubernatorial election, and calling for a proposal to be placed on
 84 the ballot at any election to repeal application of the local sales tax to the titling of motor
 85 vehicles, trailers, boats, and outboard motors purchased from a source other than a licensed
 86 Missouri dealer, the governing body shall submit to the voters of such jurisdiction a proposal to
 87 repeal application of the local sales tax to such titling. If a majority of the votes cast by the
 88 registered voters voting thereon are in favor of the proposal to repeal application of the local

89 sales tax to such titling, then the local sales tax shall no longer be applied to the titling of motor
90 vehicles, trailers, boats, and outboard motors purchased from a source other than a licensed
91 Missouri dealer. If a majority of the votes cast by the registered voters voting thereon are
92 opposed to the proposal to repeal application of the local sales tax to such titling, such
93 application shall remain in effect.] **Notwithstanding the provisions of subsection 5 of this**
94 **section, or application of the state use tax, any local use tax adopted by a local jurisdiction**
95 **under section 144.757 or other authority shall, unless excluded from the ordinance enacting**
96 **or modifying the tax, apply to the titling of motor vehicles, trailers, boats, and outboard**
97 **motors that were purchased from a source other than a licensed Missouri dealer and shall**
98 **be collected by the department of revenue, provided that if a local use tax and local sales**
99 **tax exist with respect to such items, only one such tax shall be collected as provided in**
100 **subsection 3 of section 144.610.**

101 [(6)] (5) Nothing in this subsection shall be construed to authorize the voters of any
102 jurisdiction to repeal application of any state sales or use tax.

103 [(7)] (6) If any local sales tax on the titling of motor vehicles, trailers, boats, and
104 outboard motors purchased from a source other than a licensed Missouri dealer is repealed, such
105 repeal shall take effect on the first day of the second calendar quarter after the election. If any
106 local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors purchased
107 from a source other than a licensed Missouri dealer is required to cease to be applied or collected
108 due to failure of a local taxing jurisdiction to hold an election pursuant to subdivision (2) of this
109 subsection, such cessation shall take effect on March 1, 2017.

110 6. On and after the effective date of any local sales tax imposed under the provisions of
111 the local sales tax law, the director of revenue shall perform all functions incident to the
112 administration, collection, enforcement, and operation of the tax, and the director of revenue
113 shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes
114 authorized under the authority of the local sales tax law. All local sales taxes imposed under the
115 local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri
116 shall be collected together and reported upon such forms and under such administrative rules and
117 regulations as may be prescribed by the director of revenue.

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

122 8. All exemptions granted to agencies of government, organizations, persons and to the
123 sale of certain articles and items of tangible personal property and taxable services under the
124 provisions of sections 144.010 to 144.525, as these sections now read and as they may hereafter

125 be amended, it being the intent of this general assembly to ensure that the same sales tax
126 exemptions granted from the state sales tax law also be granted under the local sales tax law, are
127 hereby made applicable to the imposition and collection of all local sales taxes imposed under
128 the local sales tax law.

129 9. The same sales tax permit, exemption certificate and retail certificate required by
130 sections 144.010 to 144.525 for the administration and collection of the state sales tax shall
131 satisfy the requirements of the local sales tax law, and no additional permit or exemption
132 certificate or retail certificate shall be required; except that the director of revenue may prescribe
133 a form of exemption certificate for an exemption from any local sales tax imposed by the local
134 sales tax law.

135 10. All discounts allowed the retailer under the provisions of the state sales tax law for
136 the collection of and for payment of taxes under the provisions of the state sales tax law are
137 hereby allowed and made applicable to any local sales tax collected under the provisions of the
138 local sales tax law.

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

142 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under
143 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard
144 motors required to be titled under the laws of the state of Missouri, shall be deemed to be
145 consummated at the place of business of the retailer unless the tangible personal property sold
146 is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has
147 more than one place of business in this state which participates in the sale, the sale shall be
148 deemed to be consummated at the place of business of the retailer where the initial order for the
149 tangible personal property is taken, even though the order must be forwarded elsewhere for
150 acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall
151 be deemed to be consummated at the place of business from which he works.

152 (2) For the purposes of any local sales tax imposed by an ordinance or order under the
153 local sales tax law, the sales tax upon the titling of all motor vehicles, trailers, boats, and
154 outboard motors shall be [imposed] **collected** at the **time of titling and at the** rate in effect at
155 the location of the residence of the purchaser, and remitted to that local taxing entity, and not at
156 the place of business of the retailer, or the place of business from which the retailer's agent or
157 employee works.

158 (3) For the purposes of any local tax imposed by an ordinance or under the local sales
159 tax law on charges for mobile telecommunications services, all taxes of mobile

160 telecommunications service shall be imposed as provided in the Mobile Telecommunications
161 Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

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

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

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

184 16. Within the boundaries of any taxing entity where one or more local sales taxes have
185 been imposed, if any person is delinquent in the payment of the amount required to be paid by
186 him under the local sales tax law or in the event a determination has been made against him for
187 taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection
188 of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to
189 144.525. Where the director of revenue has determined that suit must be filed against any person
190 for the collection of delinquent taxes due the state under the state sales tax law, and where such
191 person is also delinquent in payment of taxes under the local sales tax law, the director of
192 revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount
193 of any local sales tax due so that appropriate action may be taken by the taxing entity.

194 17. Where property is seized by the director of revenue under the provisions of any law
195 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed

196 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax
197 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join
198 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing
199 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums
200 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

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

144.525. Notwithstanding any other provision of law, the amount of any state and local
2 sales **or use** taxes due on the purchase of a motor vehicle, trailer, boat or outboard motor
3 required to be registered under the provisions of sections 301.001 to 301.660 and sections
4 306.010 to 306.900 shall be computed on the rate of such taxes in effect on the date the
5 purchaser submits application for a certificate of ownership to the director of revenue; except
6 that, in the case of a sale at retail of an outboard motor by a retail business which is not required
7 to be registered under the provisions of section 301.251, the amount of state and local **sales and**
8 **use** taxes due shall be computed on the rate of such taxes in effect as of the calendar date of the
9 retail sale.

144.610. 1. A tax is imposed for the privilege of storing, using or consuming within this
2 state any article of tangible personal property, excluding **from the state use tax, but not any**
3 **locally imposed use tax**, motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats,
4 and outboard motors required to be titled under the laws of the state of Missouri and subject to
5 tax under subdivision (9) of subsection 1 of section 144.020, purchased on or after the effective
6 date of sections 144.600 to 144.745 in an amount equivalent to the percentage imposed on the
7 sales price in the sales tax law in section 144.020. This tax does not apply with respect to the
8 storage, use or consumption of any article of tangible personal property purchased, produced or
9 manufactured outside this state until the transportation of the article has finally come to rest
10 within this state or until the article has become commingled with the general mass of property
11 of this state.

12 2. Every person storing, using or consuming in this state tangible personal property
13 subject to the tax in subsection 1 of this section is liable for the tax imposed by this law, and the
14 liability shall not be extinguished until the tax is paid to this state, but a receipt from a vendor
15 authorized by the director of revenue under the rules and regulations that he prescribes to collect
16 the tax, given to the purchaser in accordance with the provisions of section 144.650, relieves the
17 purchaser from further liability for the tax to which receipt refers.

18 3. [Because this section no longer imposes a Missouri use tax on the storage, use, or
19 consumption of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and
20 outboard motors required to be titled under the laws of the state of Missouri, in that the state
21 sales tax is now imposed on the titling of such property, the local sales tax, rather than the local
22 use tax, applies.] **To avoid double taxation on titling of motor vehicles, trailers, boats, or
23 outboard motors from a source other than a Missouri licensed dealer, the department of
24 revenue shall collect either sales or use tax, but not both, from any taxing jurisdiction that
25 has both a sales and use tax on the titling of motor vehicles, trailers, boats, or outboard
26 motors from a source other than a Missouri licensed dealer.**

27 4. The provisions of this section shall not apply to out-of-state businesses or out-of-state
28 employees operating under sections 190.270 to 190.285.

144.757. 1. Any county or municipality, except municipalities within a county having
2 a charter form of government with a population in excess of nine hundred thousand, may, by a
3 majority vote of its governing body, impose a local use tax if a local sales tax is imposed as
4 defined in section 32.085 at a rate equal to the rate of the local sales tax in effect in such county
5 or municipality; provided, however, that no ordinance or order enacted pursuant to sections
6 144.757 to 144.761 shall be effective unless the governing body of the county or municipality
7 submits to the voters thereof at a municipal, county or state general, primary or special election
8 a proposal to authorize the governing body of the county or municipality to impose a local use
9 tax pursuant to sections 144.757 to 144.761. Municipalities within a county having a charter
10 form of government with a population in excess of nine hundred thousand may, upon voter
11 approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section,
12 impose a local use tax at the same rate as the local municipal sales tax with the revenues from
13 all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890. The
14 municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph
15 (b) of subdivision (2) of subsection 2 of this section select one of the distribution options
16 permitted in subsection 4 of section 94.890 for distribution of all municipal use taxes.

17 2. (1) The ballot of submission, except for counties and municipalities described in
18 subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

19 Shall the (county or municipality's name) impose a local use tax at the same rate
 20 as the total local sales tax rate, currently (insert percent), provided that if the local sales
 21 tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or
 22 raised by the same action? A use tax return shall not be required to be filed by persons whose
 23 purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar
 24 year.

25 YES NO

26

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

29 (2) (a) The ballot of submission in a county having a charter form of government with
 30 a population in excess of nine hundred thousand shall contain substantially the following
 31 language:

32 For the purposes of enhancing county and municipal public safety, parks, and job creation
 33 and enhancing local government services, shall the county be authorized to collect a local use
 34 tax equal to the total of the existing county sales tax rate of (insert tax rate), provided that if the
 35 county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also
 36 be repealed, reduced or raised by the same voter action? Fifty percent of the revenue shall be
 37 used by the county throughout the county for improving and enhancing public safety, park
 38 improvements, and job creation, and fifty percent shall be used for enhancing local government
 39 services. The county shall be required to make available to the public an audited comprehensive
 40 financial report detailing the management and use of the countywide portion of the funds each
 41 year.

42

43 A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers
 44 and on certain taxable business transactions. A use tax return shall not be required to be filed
 45 by persons whose purchases from out-of-state vendors do not in total exceed two thousand
 46 dollars in any calendar year.

47

48 YES NO

49

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

52 (b) The ballot of submission in a municipality within a county having a charter form of
 53 government with a population in excess of nine hundred thousand shall contain substantially the
 54 following language:

55 Shall the municipality be authorized to impose a local use tax at the same rate as the local
 56 sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced
 57 or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised
 58 by the same action? A use tax return shall not be required to be filed by persons whose
 59 purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar
 60 year.

61 YES NO

62

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

65 (3) The ballot of submission in any city not within a county shall contain substantially
 66 the following language:

67 Shall the (city name) impose a local use tax at the same rate as the local sales
 68 tax, currently at a rate of (insert percent) which includes the capital improvements
 69 sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or
 70 raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by
 71 the same action? A use tax return shall not be required to be filed by persons whose purchases
 72 from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

73

74 YES NO

75

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

78 (4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes
 79 cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the
 80 ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the
 81 director of revenue receives notice of adoption of the local use tax on or before August 16, 1996.
 82 If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast
 83 on the proposal by the qualified voters voting thereon are in favor of the proposal, then the
 84 ordinance or order and any amendments thereto shall be in effect on the first day of the calendar
 85 quarter which begins at least forty-five days after the director of revenue receives notice of
 86 adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are
 87 opposed to the proposal, then the governing body of the county or municipality shall have no
 88 power to impose the local use tax as herein authorized unless and until the governing body of the
 89 county or municipality shall again have submitted another proposal to authorize the governing

90 body of the county or municipality to impose the local use tax and such proposal is approved by
91 a majority of the qualified voters voting thereon.

92 3. **Except as may otherwise be provided by statute**, the local use tax may be imposed
93 at the same rate as the local sales tax then currently in effect in the county or municipality upon
94 [all] transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745
95 within the county or municipality adopting such tax; provided, however, that if any local sales
96 tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate
97 shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or
98 raising the local sales tax.

99 4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or
100 described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state
101 buyers and on certain intrabusiness transactions. Such a description shall not change the
102 classification, form or subject of the use tax or the manner in which it is collected.

✓