

SENATE BILL NO. 459

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNELTING.

1401S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 32.087, RSMo, and to enact in lieu thereof two new sections relating to local regulations.

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Section A. Section 32.087, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 27.165 and 32.087, to read as follows:

27.165. 1. At the request of any member of the general assembly, the attorney general shall investigate any ordinance, order, or rule adopted or enforced by a taxing entity, as defined in section 32.085, that the member alleges violates state law or the state constitution.

2. The attorney general shall produce a written report of findings and conclusions as a result of the investigation within thirty days after receipt of the request and shall provide a copy of the report to the governor, lieutenant governor, director of revenue, and requesting member of the general assembly. If the attorney general concludes that the ordinance, order, or rule under investigation:

(1) Violates any provision of state law or the state constitution, then the attorney general shall provide notice to the taxing entity of the violation and that the taxing entity has thirty days to resolve the violation. If the attorney general determines that the taxing entity has failed to resolve the violation within thirty days of receiving notice, then the attorney general shall:

20 (a) Certify that the violation has not been resolved
21 to the director of revenue, who shall withhold the taxing
22 entity's monthly local sales tax allocation pursuant to
23 subsection 19 of section 32.087; and

24 (b) Monitor the response of the taxing entity. When
25 the offending ordinance, order, or rule is repealed or the
26 violation is otherwise resolved, then the attorney general
27 shall:

28 a. Notify the governor, lieutenant governor, and
29 requesting member of the general assembly that the violation
30 has been resolved; and

31 b. Certify that the violation has been resolved to the
32 director of revenue, who shall restore the distribution of
33 the taxing entity's monthly local sales tax pursuant to
34 subsection 19 of section 32.087;

35 (2) May violate a provision of state law or the state
36 constitution, then the attorney general shall bring an
37 action against the taxing entity to resolve the issue in a
38 court of competent jurisdiction;

39 (3) Does not violate any provision of state law or the
40 state constitution, then the attorney general shall take no
41 further action pursuant to this section.

42 3. Before a member of the general assembly may request
43 an investigation by the attorney general of any ordinance,
44 order, or rule pursuant to this section, the member shall
45 first provide notice of the alleged violation of state law
46 or the state constitution to the taxing entity. If the
47 taxing entity does not repeal or otherwise resolve the
48 alleged violation within sixty days after receiving notice,
49 then the member may request an investigation by the attorney
50 general pursuant to this section.

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.

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

32 5. (1) The ordinance or order imposing a local sales
33 tax under the local sales tax law shall impose a tax upon
34 all transactions upon which the Missouri state sales tax is
35 imposed to the extent and in the manner provided in sections
36 144.010 to 144.525, and the rules and regulations of the
37 director of revenue issued pursuant thereto; except that the
38 rate of the tax shall be the sum of the combined rate of the
39 state sales tax or state highway use tax and all local sales
40 taxes imposed under the provisions of the local sales tax
41 law.

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

54 Shall the _____ (local jurisdiction's name)
55 discontinue applying and collecting the local
56 sales tax on the titling of motor vehicles,
57 trailers, boats, and outboard motors that were
58 purchased from a source other than a licensed
59 Missouri dealer?

60 Approval of this measure will result in a
61 reduction of local revenue to provide for vital
62 services for _____ (local jurisdiction's name)
63 and it will place Missouri dealers of motor
64 vehicles, outboard motors, boats, and trailers at
65 a competitive disadvantage to non-Missouri dealers

66 of motor vehicles, outboard motors, boats, and
67 trailers.

68 YES NO

69 If you are in favor of the question, place an "X"
70 in the box opposite "YES". If you are opposed to
71 the question, place an "X" in the box opposite "NO".
72

73 (3) If the ballot question set forth in subdivision
74 (2) of this subsection receives a majority of the votes cast
75 in favor of the proposal, or if the local taxing
76 jurisdiction fails to place the ballot question before the
77 voters on or before the general election in November 2022,
78 the local taxing jurisdiction shall cease applying the local
79 sales tax to the titling of motor vehicles, trailers, boats,
80 and outboard motors that were purchased from a source other
81 than a licensed Missouri dealer.

82 (4) In addition to the requirement that the ballot
83 question set forth in subdivision (2) of this subsection be
84 placed before the voters, the governing body of any local
85 taxing jurisdiction that had previously imposed a local use
86 tax on the use of motor vehicles, trailers, boats, and
87 outboard motors may, at any time, place a proposal on the
88 ballot at any election to repeal application of the local
89 sales tax to the titling of motor vehicles, trailers, boats,
90 and outboard motors purchased from a source other than a
91 licensed Missouri dealer. If a majority of the votes cast
92 by the registered voters voting thereon are in favor of the
93 proposal to repeal application of the local sales tax to
94 such titling, then the local sales tax shall no longer be
95 applied to the titling of motor vehicles, trailers, boats,
96 and outboard motors purchased from a source other than a
97 licensed Missouri dealer. If a majority of the votes cast

98 by the registered voters voting thereon are opposed to the
99 proposal to repeal application of the local sales tax to
100 such titling, such application shall remain in effect.

101 (5) In addition to the requirement that the ballot
102 question set forth in subdivision (2) of this subsection be
103 placed before the voters on or after the general election in
104 November 2014, and on or before the general election in
105 November 2022, whenever the governing body of any local
106 taxing jurisdiction imposing a local sales tax on the sale
107 of motor vehicles, trailers, boats, and outboard motors
108 receives a petition, signed by fifteen percent of the
109 registered voters of such jurisdiction voting in the last
110 gubernatorial election, and calling for a proposal to be
111 placed on the ballot at any election to repeal application
112 of the local sales tax to the titling of motor vehicles,
113 trailers, boats, and outboard motors purchased from a source
114 other than a licensed Missouri dealer, the governing body
115 shall submit to the voters of such jurisdiction a proposal
116 to repeal application of the local sales tax to such
117 titling. If a majority of the votes cast by the registered
118 voters voting thereon are in favor of the proposal to repeal
119 application of the local sales tax to such titling, then the
120 local sales tax shall no longer be applied to the titling of
121 motor vehicles, trailers, boats, and outboard motors
122 purchased from a source other than a licensed Missouri
123 dealer. If a majority of the votes cast by the registered
124 voters voting thereon are opposed to the proposal to repeal
125 application of the local sales tax to such titling, such
126 application shall remain in effect.

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

130 (7) If any local sales tax on the titling of motor
131 vehicles, trailers, boats, and outboard motors purchased
132 from a source other than a licensed Missouri dealer is
133 repealed, such repeal shall take effect on the first day of
134 the second calendar quarter after the election. If any
135 local sales tax on the titling of motor vehicles, trailers,
136 boats, and outboard motors purchased from a source other
137 than a licensed Missouri dealer is required to cease to be
138 applied or collected due to failure of a local taxing
139 jurisdiction to hold an election pursuant to subdivision (2)
140 of this subsection, such cessation shall take effect on
141 March 1, 2023.

142 (8) Notwithstanding any provision of law to the
143 contrary, if any local sales tax on the titling of motor
144 vehicles, trailers, boats, and outboard motors purchased
145 from a source other than a licensed Missouri dealer is
146 repealed after the general election in November 2014, or if
147 the taxing jurisdiction failed to present the ballot to the
148 voters at a general election on or before November 2022,
149 then the governing body of such taxing jurisdiction may, at
150 any election subsequent to the repeal or after the general
151 election in November 2022, if the jurisdiction failed to
152 present the ballot to the voters, place before the voters
153 the issue of imposing a sales tax on the titling of motor
154 vehicles, trailers, boats, and outboard motors that are
155 subject to state sales tax under section 144.020 that were
156 purchased from a source other than a licensed Missouri
157 dealer. The ballot question presented to the local voters
158 shall contain substantially the following language:

159 Shall the _____ (local jurisdiction's name)
160 apply and collect the local sales tax on the
161 titling of motor vehicles, trailers, boats, and

162 outboard motors that are subject to state sales
163 tax under section 144.020 and purchased from a
164 source other than a licensed Missouri dealer?

165 Approval of this measure will result in an
166 increase of local revenue to provide for vital
167 services for _____ (local jurisdiction's
168 name), and it will remove a competitive advantage
169 that non-Missouri dealers of motor vehicles,
170 outboard motors, boats, and trailers have over
171 Missouri dealers of motor vehicles, outboard
172 motors, boats, and trailers.

173 YES NO

174 If you are in favor of the question, place an "X"
175 in the box opposite "YES". If you are opposed to
176 the question, place an "X" in the box opposite "NO".
177

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

183 6. On and after the effective date of any local sales
184 tax imposed under the provisions of the local sales tax law,
185 the director of revenue shall perform all functions incident
186 to the administration, collection, enforcement, and
187 operation of the tax, and the director of revenue shall
188 collect in addition to the sales tax for the state of
189 Missouri all additional local sales taxes authorized under
190 the authority of the local sales tax law. All local sales
191 taxes imposed under the local sales tax law together with
192 all taxes imposed under the sales tax law of the state of
193 Missouri shall be collected together and reported upon such
194 forms and under such administrative rules and regulations as
195 may be prescribed by the director of revenue.

196 7. All applicable provisions contained in sections
197 144.010 to 144.525 governing the state sales tax and section
198 32.057, the uniform confidentiality provision, shall apply
199 to the collection of any local sales tax imposed under the
200 local sales tax law except as modified by the local sales
201 tax law.

202 8. All exemptions granted to agencies of government,
203 organizations, persons and to the sale of certain articles
204 and items of tangible personal property and taxable services
205 under the provisions of sections 144.010 to 144.525, as
206 these sections now read and as they may hereafter be
207 amended, it being the intent of this general assembly to
208 ensure that the same sales tax exemptions granted from the
209 state sales tax law also be granted under the local sales
210 tax law, are hereby made applicable to the imposition and
211 collection of all local sales taxes imposed under the local
212 sales tax law.

213 9. The same sales tax permit, exemption certificate
214 and retail certificate required by sections 144.010 to
215 144.525 for the administration and collection of the state
216 sales tax shall satisfy the requirements of the local sales
217 tax law, and no additional permit or exemption certificate
218 or retail certificate shall be required; except that the
219 director of revenue may prescribe a form of exemption
220 certificate for an exemption from any local sales tax
221 imposed by the local sales tax law.

222 10. All discounts allowed the retailer under the
223 provisions of the state sales tax law for the collection of
224 and for payment of taxes under the provisions of the state
225 sales tax law are hereby allowed and made applicable to any
226 local sales tax collected under the provisions of the local
227 sales tax law.

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

232 12. (1) For the purposes of any local sales tax
233 imposed by an ordinance or order under the local sales tax
234 law, all sales, except the sale of motor vehicles, trailers,
235 boats, and outboard motors required to be titled under the
236 laws of the state of Missouri, shall be deemed to be
237 consummated at the place of business of the retailer unless
238 the tangible personal property sold is delivered by the
239 retailer or his agent to an out-of-state destination. In
240 the event a retailer has more than one place of business in
241 this state which participates in the sale, the sale shall be
242 deemed to be consummated at the place of business of the
243 retailer where the initial order for the tangible personal
244 property is taken, even though the order must be forwarded
245 elsewhere for acceptance, approval of credit, shipment or
246 billing. A sale by a retailer's agent or employee shall be
247 deemed to be consummated at the place of business from which
248 he works.

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

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

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

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

271 14. The director of revenue and any of his deputies,
272 assistants and employees who have any duties or
273 responsibilities in connection with the collection, deposit,
274 transfer, transmittal, disbursement, safekeeping,
275 accounting, or recording of funds which come into the hands
276 of the director of revenue under the provisions of the local
277 sales tax law shall enter a surety bond or bonds payable to
278 any and all taxing entities in whose behalf such funds have
279 been collected under the local sales tax law in the amount
280 of one hundred thousand dollars for each such tax; but the
281 director of revenue may enter into a blanket bond covering
282 himself and all such deputies, assistants and employees.
283 The cost of any premium for such bonds shall be paid by the
284 director of revenue from the share of the collections under
285 the sales tax law retained by the director of revenue for
286 the benefit of the state.

287 15. The director of revenue shall annually report on
288 his management of each trust fund which is created under the
289 local sales tax law and administration of each local sales
290 tax imposed under the local sales tax law. He shall provide
291 each taxing entity imposing one or more local sales taxes

292 authorized by the local sales tax law with a detailed
293 accounting of the source of all funds received by him for
294 the taxing entity. Notwithstanding any other provisions of
295 law, the state auditor shall annually audit each trust
296 fund. A copy of the director's report and annual audit
297 shall be forwarded to each taxing entity imposing one or
298 more local sales taxes.

299 16. Within the boundaries of any taxing entity where
300 one or more local sales taxes have been imposed, if any
301 person is delinquent in the payment of the amount required
302 to be paid by him under the local sales tax law or in the
303 event a determination has been made against him for taxes
304 and penalty under the local sales tax law, the limitation
305 for bringing suit for the collection of the delinquent tax
306 and penalty shall be the same as that provided in sections
307 144.010 to 144.525. Where the director of revenue has
308 determined that suit must be filed against any person for
309 the collection of delinquent taxes due the state under the
310 state sales tax law, and where such person is also
311 delinquent in payment of taxes under the local sales tax
312 law, the director of revenue shall notify the taxing entity
313 in the event any person fails or refuses to pay the amount
314 of any local sales tax due so that appropriate action may be
315 taken by the taxing entity.

316 17. Where property is seized by the director of
317 revenue under the provisions of any law authorizing seizure
318 of the property of a taxpayer who is delinquent in payment
319 of the tax imposed by the state sales tax law, and where
320 such taxpayer is also delinquent in payment of any tax
321 imposed by the local sales tax law, the director of revenue
322 shall permit the taxing entity to join in any sale of
323 property to pay the delinquent taxes and penalties due the

324 state and to the taxing entity under the local sales tax
325 law. The proceeds from such sale shall first be applied to
326 all sums due the state, and the remainder, if any, shall be
327 applied to all sums due such taxing entity.

328 18. If a local sales tax has been in effect for at
329 least one year under the provisions of the local sales tax
330 law and voters approve reimposition of the same local sales
331 tax at the same rate at an election as provided for in the
332 local sales tax law prior to the date such tax is due to
333 expire, the tax so reimposed shall become effective the
334 first day of the first calendar quarter after the director
335 receives a certified copy of the ordinance, order or
336 resolution accompanied by a map clearly showing the
337 boundaries thereof and the results of such election,
338 provided that such ordinance, order or resolution and all
339 necessary accompanying materials are received by the
340 director at least thirty days prior to the expiration of
341 such tax. Any administrative cost or expense incurred by
342 the state as a result of the provisions of this subsection
343 shall be paid by the city or county reimposing such tax.

344 **19. Upon certification from the attorney general**
345 **pursuant to section 27.165 that an ordinance, order, or rule**
346 **adopted or enforced by a taxing entity violates state law or**
347 **the state constitution, the director of revenue shall**
348 **withhold the taxing entity's monthly local sales tax**
349 **allocation and shall continue to withhold the taxing**
350 **entity's monthly local sales tax allocation until the**
351 **attorney general certifies to the director of revenue that**
352 **the violation has been resolved.**

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