

SECOND REGULAR SESSION

# HOUSE BILL NO. 1154

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRANDOM (Sponsor), LAUER,  
SMITH (150) AND FREDERICK (Co-sponsors).

4280L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 135.647, RSMo, and to enact in lieu thereof one new section relating to donated food tax credits.

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

Section A. Section 135.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.647, to read as follows:

135.647. 1. As used in this section, the following terms shall mean:

(1) "Local food pantry", any food pantry that is:

(a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(b) Distributing emergency food supplies to Missouri low-income people who would otherwise not have access to food supplies in the area in which the taxpayer claiming the tax credit under this section resides;

(2) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in this state and subject to the state income tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

2. For all tax years beginning on or after January 1, 2007, any taxpayer who donates cash or food, unless such food is donated after the food's expiration date, to any local food pantry shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the value of the donations made to the extent such amounts that have been subtracted from federal adjusted gross income or federal taxable income are added back in the determination of Missouri adjusted gross

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 income or Missouri taxable income before the credit can be claimed. Each taxpayer claiming  
18 a tax credit under this section shall file an affidavit with the income tax return verifying the  
19 amount of their contributions. The amount of the tax credit claimed shall not exceed the amount  
20 of the taxpayer's state tax liability for the tax year that the credit is claimed, and shall not exceed  
21 two thousand five hundred dollars per taxpayer claiming the credit. Any amount of credit that  
22 the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but  
23 may be carried forward to any of the taxpayer's three subsequent taxable years. No tax credit  
24 granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible  
25 to receive a credit pursuant to this section if such taxpayer employs persons who are not  
26 authorized to work in the United States under federal law.

27       **3. For all tax years ending on or before December 31, 2012,** the cumulative amount  
28 of tax credits under this section which may be allocated to all taxpayers contributing to a local  
29 food pantry in any one fiscal year shall not exceed two million dollars, **and for all tax years**  
30 **beginning on or after January 1, 2013, the cumulative total shall not exceed one million**  
31 **dollars.** The director of revenue shall establish a procedure by which the cumulative amount of  
32 tax credits is apportioned among all taxpayers claiming the credit by April fifteenth of the fiscal  
33 year in which the tax credit is claimed. To the maximum extent possible, the director of revenue  
34 shall establish the procedure described in this subsection in such a manner as to ensure that  
35 taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits  
36 available for the fiscal year.

37       4. Any local food pantry may accept or reject any donation of food made under this  
38 section for any reason. For purposes of this section, any donations of food accepted by a local  
39 food pantry shall be valued at fair market value, or at wholesale value if the taxpayer making the  
40 donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

41       5. The department of revenue shall promulgate rules to implement the provisions of this  
42 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
43 under the authority delegated in this section shall become effective only if it complies with and  
44 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
45 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
46 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule  
47 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
48 proposed or adopted after August 28, 2007, shall be invalid and void.

49       6. Under section 23.253 of the Missouri sunset act:

50       (1) [The provisions of the new program authorized under this section shall automatically  
51 sunset four years after August 28, 2007, unless reauthorized by an act of the general assembly;  
52 and

53           (2) If such program is reauthorized,] The program authorized under this section shall  
54 [automatically sunset twelve years after the effective date of the reauthorization of this section]  
55 **expire on December 31, 2020;** and

56           [(3)] **(2)** This section shall terminate on September [first of the calendar year  
57 immediately following the calendar year in which the program authorized under this section is  
58 sunset] **1, 2021.**

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