

FIRST REGULAR SESSION

HOUSE BILL NO. 324

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AMATO.

0191H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 135.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.647, to read as follows: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) "Local homeless shelter", any homeless shelter that is:

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

(b) Providing temporary living arrangements, in the area in which the taxpayer claiming the tax credit under this section resides, for individuals and families who otherwise lack a fixed, regular, and adequate nighttime residence and lack the resources or support networks to obtain other permanent housing;

(3) "Local soup kitchen", any soup kitchen that is:

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

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.

18 (b) Providing prepared meals through an established congregate feeding operation to
19 needy, low-income persons including, but not limited to, homeless persons in the area in
20 which the taxpayer claiming the tax credit under this section resides;

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

24 2. (1) Beginning on March 29, 2013, any donation of cash or food made to a local
25 food pantry on or after January 1, 2013, unless such food is donated after the food's expiration
26 date, shall be eligible for tax credits as provided by this section.

27 (2) Beginning on August 28, 2018, any donation of cash or food made to a local soup
28 kitchen or local homeless shelter on or after January 1, 2018, unless such food is donated after
29 the food's expiration date, shall be eligible for a tax credit as provided under this section.

30 (3) Any taxpayer who makes a donation that is eligible for a tax credit under this
31 section shall be allowed a credit against the tax otherwise due under chapter 143, excluding
32 withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent
33 of the value of the donations made to the extent such amounts that have been subtracted from
34 federal adjusted gross income or federal taxable income are added back in the determination
35 of Missouri adjusted gross income or Missouri taxable income before the credit can be
36 claimed. Each taxpayer claiming a tax credit under this section shall file an affidavit with the
37 income tax return verifying the amount of their contributions. The amount of the tax credit
38 claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year that
39 the credit is claimed and shall not exceed two thousand five hundred dollars per taxpayer
40 claiming the credit. Any amount of credit that the taxpayer is prohibited by this section from
41 claiming in a tax year shall not be refundable, but may be carried forward to any of the
42 taxpayer's three subsequent tax years. No tax credit granted under this section shall be
43 transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit pursuant to this
44 section if such taxpayer employs persons who are not authorized to work in the United States
45 under federal law. No taxpayer shall be able to claim more than one credit under this section
46 for a single donation.

47 3. The cumulative amount of tax credits under this section which may be allocated to
48 all taxpayers contributing to a local food pantry, local soup kitchen, or local homeless shelter
49 in any one fiscal year shall not exceed ~~[one] three million [seven hundred fifty thousand]~~
50 dollars. The director of revenue shall establish a procedure by which the cumulative amount
51 of tax credits is apportioned among all taxpayers claiming the credit by April fifteenth of the
52 fiscal year in which the tax credit is claimed. To the maximum extent possible, the director of
53 revenue shall establish the procedure described in this subsection in such a manner as to

54 ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax
55 credits available for the fiscal year.

56 4. Any local food pantry, local soup kitchen, or local homeless shelter may accept or
57 reject any donation of food made under this section for any reason. For purposes of this
58 section, any donations of food accepted by a local food pantry, local soup kitchen, or local
59 homeless shelter shall be valued at fair market value, or at wholesale value if the taxpayer
60 making the donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

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

70 6. **In the event a full or partial credit denial, due to the cumulative maximum**
71 **amount of credits being redeemed for the fiscal year, causes an income-tax balance due**
72 **to be owed to the state by the taxpayer, the taxpayer shall not be held liable for any**
73 **addition to tax, penalty, or interest on that income-tax balance due, provided the**
74 **balance is paid, or approved payment arrangements have been made, within sixty days**
75 **from the issuance of the notice of the credit denial.**

76 7. Under section 23.253 of the Missouri sunset act:

77 (1) The program authorized under this section shall be reauthorized as of August 28,
78 ~~[2018]~~ **2025**, and shall ~~[expire]~~ **automatically sunset** on December 31, ~~[2026]~~ **2031**, unless
79 reauthorized by **an act of** the general assembly; and

80 (2) **If such program is reauthorized, the program authorized under this section**
81 **shall automatically sunset on December thirty-first twelve years after the effective date**
82 **of the reauthorization of this section; and**

83 (3) This section shall terminate on September first of the calendar year immediately
84 following the calendar year in which the program authorized under this section is sunset; and

85 ~~[(3)]~~ (4) The provisions of this subsection shall not be construed to limit or in any
86 way impair a taxpayer's ability to redeem tax credits authorized on or before the date the
87 program authorized under this section expires.

✓