

HOUSE BILL NO. 2389

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARINGER.

6213H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.647, RSMo, and to enact in lieu thereof one new section relating to tax credits for contributions to certain benevolent organizations.

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Section A. Section 135.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.647, to read as follows: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**
19 **to needy, low-income persons including, but not limited to, homeless persons in the area**
20 **in 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 food**
25 **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) [~~For all tax years beginning on or after January 1, 2007,~~] **Beginning on August 28,**
28 **2018, any donation of cash or food made to a local soup kitchen or local homeless shelter**
29 **on or after January 1, 2018, unless such food is donated after the food's expiration date,**
30 **shall be eligible for a tax credit as provided under this section.**

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

49 3. The cumulative amount of tax credits under this section which may be allocated to all
50 taxpayers contributing to a local food pantry, **local soup kitchen, or local homeless shelter** in
51 any one fiscal year shall not exceed one million seven hundred fifty thousand dollars. The
52 director of revenue shall establish a procedure by which the cumulative amount of tax credits is
53 apportioned among all taxpayers claiming the credit by April fifteenth of the fiscal year in which

54 the tax credit is claimed. To the maximum extent possible, the director of revenue shall establish
55 the procedure described in this subsection in such a manner as to ensure that taxpayers can claim
56 all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

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

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

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

71 (1) The program authorized under this section shall be reauthorized as of ~~[March 29,~~
72 ~~2013]~~ **August 28, 2018**, and shall expire on December 31, ~~[2019]~~ **2026**, unless reauthorized by
73 the general assembly; and

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

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

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