

SECOND REGULAR SESSION

# HOUSE BILL NO. 2804

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DUNN.

6891H.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 the donated food tax credit.

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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Section A. Section 135.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.647, to read as follows: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) **“Food”, food intended for human consumption including, but not limited to, livestock, wild game, poultry, seafood, or any other meat, that is processed at a processing facility certified by the United States Department of Agriculture; eggs; milk; or an agricultural crop including, but not limited to, grains, fruits, and vegetables;**

(2) "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)~~ (3) "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. (1) Beginning on March 29, 2013, any donation of cash or food made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

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           (2) For all tax years beginning on or after January 1, 2007, any taxpayer who donates  
18 cash or food, unless such food is donated after the food's expiration date, to any local food pantry  
19 shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding  
20 tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the value of  
21 the donations made to the extent such amounts that have been subtracted from federal adjusted  
22 gross income or federal taxable income are added back in the determination of Missouri adjusted  
23 gross income or Missouri taxable income before the credit can be claimed. Each taxpayer  
24 claiming a tax credit under this section shall file an affidavit with the income tax return verifying  
25 the amount of their contributions. The amount of the tax credit claimed shall not exceed the  
26 amount of the taxpayer's state tax liability for the tax year that the credit is claimed, and shall not  
27 exceed two thousand five hundred dollars per taxpayer claiming the credit. Any amount of credit  
28 that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable,  
29 but may be carried forward to any of the taxpayer's three subsequent taxable years. No tax credit  
30 granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible  
31 to receive a credit pursuant to this section if such taxpayer employs persons who are not  
32 authorized to work in the United States under federal law.

33           3. The cumulative amount of tax credits under this section which may be allocated to all  
34 taxpayers contributing to a local food pantry in any one fiscal year shall not exceed one million  
35 seven hundred fifty thousand dollars. The director of revenue shall establish a procedure by  
36 which the cumulative amount of tax credits is apportioned among all taxpayers claiming the  
37 credit by April fifteenth of the fiscal year in which the tax credit is claimed. To the maximum  
38 extent possible, the director of revenue shall establish the procedure described in this subsection  
39 in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the  
40 cumulative amount of tax credits available for the fiscal year.

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

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

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

54           (1) The program authorized under this section shall be reauthorized as of March 29,  
55 2013, and shall expire on December 31, 2019, unless reauthorized by the general assembly; and

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

58           (3) The provisions of this subsection shall not be construed to limit or in any way impair  
59 the department's ability to redeem tax credits authorized on or before the date the program  
60 authorized under this section expires or a taxpayer's ability to redeem such tax credits.

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