

HOUSE BILL NO. 585

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLEMAN (32).

0993H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 143, RSMo, by adding thereto one new section relating to taxpayer protection.

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

Section A. Chapter 143, RSMo, is amended by adding thereto one new section, to be
2 known as section 143.980, to read as follows:

143.980. 1. This section shall be known as the "Taxpayer Protection Act".

2. For purposes of this section, the following terms shall mean:

(1) "Department", the Missouri department of revenue;

**(2) "Paid tax return preparer", a person who prepares for compensation, or who
4 employs one or more person to prepare for compensation, any income tax return or claim
5 for refund required to be filed under this chapter. The preparation of a substantial
6 portion of a return or claim for refund shall be treated as the preparation of such return
7 or claim for refund. A paid tax return preparer shall not include any certified public
8 accountant who holds an active license issued by any state and the employees of such
9 certified public accountant or certified public accounting firm;**

**(3) "Willful or reckless conduct", the same meaning as provided under 26 U.S.C.
12 Section 6694(b)(2).**

**3. For all tax years beginning on or after January 1, 2020, any income return or
14 claim for refund prepared by a paid tax return preparer shall be signed by the paid tax
15 return preparer and shall bear the paid tax return preparer's Internal Revenue Service
16 preparer tax identification number. Any person who is the paid tax return preparer with
17 respect to any tax return or claim for refund and who fails to sign the return or claim for
18 refund, or who fails to provide his or her preparer tax identification number, shall pay a**

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.

19 penalty of fifty dollars for each such failure, unless it can be shown that the failure was due
20 to reasonable cause and not willful or reckless conduct. The aggregate penalty that may
21 be imposed by the department on any paid tax return preparer with respect to returns or
22 claims for refund filed during any calendar year shall not exceed twenty-five thousand
23 dollars per paid tax return preparer.

24 4. (1) In a court of competent jurisdiction, the director of the department may
25 commence suit to enjoin any paid tax return preparer from further engaging in any
26 conduct described under subdivision 2 of this subsection or from further action as a paid
27 tax return preparer.

28 (2) In any action under subdivision 1 of this subsection, if the court finds that
29 injunctive relief is appropriate to prevent the recurrence of this conduct, the court may
30 enjoin the paid tax return preparer from further engaging in any conduct specified in this
31 subdivision. The court may enjoin conduct when a paid tax return preparer has done any
32 of the following:

33 (a) Prepared any income tax return or claim for refund that includes an
34 understatement of a taxpayer's liability due to an unreasonable position. For purposes of
35 this subdivision, the term "unreasonable position" shall have the same meaning as
36 provided under 26 U.S.C. Section 6694(a)(2);

37 (b) Prepared any income tax return or claim for refund that includes an
38 understatement of a taxpayer's liability due to the paid tax return preparer's willful or
39 reckless conduct;

40 (c) Where required, failed to sign an income tax return or claim for refund;

41 (d) Where required, failed to furnish his or her preparer tax identification number;

42 (e) Where required, failed to retain a copy of the income tax return;

43 (f) Where required by due diligence requirements imposed under department rules
44 and regulations, failed to be diligent in determining eligibility for tax benefits;

45 (g) Negotiated a check issued to a taxpayer by the department without the
46 permission of the taxpayer;

47 (h) Engaged in any conduct subject to any criminal penalty provided under
48 chapters 135 to 155;

49 (i) Misrepresented the paid tax return preparer's eligibility to practice to the
50 department or otherwise misrepresented the paid tax return preparer's experience or
51 education;

52 (j) Guaranteed the payment of any income tax refund or the allowance of any
53 income tax credit; or

54 **(k) Engaged in any other fraudulent or deceptive conduct that substantially**
55 **interferes with the proper administration of the tax laws of this state.**

56 **(3) (a) If the court finds that a paid tax return preparer has continually or**
57 **repeatedly engaged in any conduct described under subdivision 2 of this subsection and**
58 **that an injunction prohibiting the conduct would not be sufficient to prevent the person's**
59 **interference with the proper administration of the tax laws of this state, the court may**
60 **enjoin the person from acting as a paid tax return preparer in this state.**

61 **(b) The fact that the person has been enjoined from preparing tax returns or claims**
62 **for refund for the United States or any other state in the five years preceding the petition**
63 **for an injunction shall establish a prima facie case for an injunction to be issued under this**
64 **section. For purposes of this paragraph, the term "state" shall mean a state of the United**
65 **States, the District of Columbia, Puerto Rico, United States Virgin Islands, or any territory**
66 **or insular possession subject to the jurisdiction of the United States.**

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