

SECOND REGULAR SESSION

# SENATE BILL NO. 804

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 14, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5450S.011

## 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Section A. Section 135.647, RSMo, is repealed and one new section  
2 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:

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

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

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

8 (2) "Local soup kitchen", any soup kitchen that is:

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

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

15 (3) "Local homeless shelter", any homeless shelter that is:

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

18 (b) Providing temporary living arrangements, in the area in  
19 which the taxpayer claiming the tax credit under this section resides,

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 **for individuals and families who otherwise lack a fixed, regular, and**  
21 **adequate nighttime residence and lack the resources or support**  
22 **networks to obtain other permanent housing;**

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

27 2. (1) **Beginning on August 28, 2018, any donation of cash or food**  
28 **made to local soup kitchens or local homeless shelters on or after**  
29 **January 1, 2018, shall be eligible for tax credits as provided by in this**  
30 **section.**

31 (2) Beginning on March 29, 2013, any donation of cash or food made **to**  
32 **local food pantries** on or after January 1, 2013, shall be eligible for tax credits  
33 as provided by this section.

34 [(2) For all tax years beginning on or after January 1, 2007,]

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

56           3. The cumulative amount of tax credits under this section which may be  
57 allocated to all taxpayers contributing to a local food pantry, **a local soup**  
58 **kitchen, or a local homeless shelter** in any one fiscal year shall not exceed  
59 one million seven hundred fifty thousand dollars. The director of revenue shall  
60 establish a procedure by which the cumulative amount of tax credits is  
61 apportioned among all taxpayers claiming the credit by April fifteenth of the  
62 fiscal year in which the tax credit is claimed. To the maximum extent possible,  
63 the director of revenue shall establish the procedure described in this subsection  
64 in such a manner as to ensure that taxpayers can claim all the tax credits  
65 possible up to the cumulative amount of tax credits available for the fiscal year.

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

72           5. The department of revenue shall promulgate rules to implement the  
73 provisions of this section. Any rule or portion of a rule, as that term is defined  
74 in section 536.010, that is created under the authority delegated in this section  
75 shall become effective only if it complies with and is subject to all of the  
76 provisions of chapter 536 and, if applicable, section 536.028. This section and  
77 chapter 536 are nonseverable and if any of the powers vested with the general  
78 assembly pursuant to chapter 536 to review, to delay the effective date, or to  
79 disapprove and annul a rule are subsequently held unconstitutional, then the  
80 grant of rulemaking authority and any rule proposed or adopted after August 28,  
81 2007, shall be invalid and void.

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

83           (1) The program authorized under this section shall be reauthorized as of  
84 **[March 29, 2013] August 28, 2018**, and shall expire on December 31, **[2019]**  
85 **2026**, unless reauthorized by the general assembly; and

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

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

92 ability to redeem such tax credits.

✓

Unofficial

Bill

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