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**SENATE BILL 6112**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Lovick, Kuderer, Nguyen, Randall, Shewmake, Van De Wege, and C. Wilson

AN ACT Relating to authorizing a business and occupation tax credit for the cost of donated food items by grocery stores and other food retailers; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that according to the United States department of agriculture, food waste in the United States is estimated at between 30 to 40 percent of the food supply. The legislature further finds that 30 percent of food in grocery stores is thrown away, according to the recycle track system, creating endless, unfortunate, and unnecessary food waste. The legislature further finds that some food retailers have made significant inroads to donate a significant amount of products that go unsold but remain fit to be enjoyed to local food recovery organizations; however, additional state support is required to further bolster food recovery efforts. It is the intent of the legislature to provide a state funding mechanism to further promote food recovery efforts by food retailers.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for qualified donation items donated to a qualified food bank by a qualified food retailer.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3)(a) Except as otherwise provided in this subsection (3), the amount of credit under this section is equal to 100 percent of the qualified value of qualified donation items.

(b) The amount of credit under this section is equal to 50 percent of the fuel cost charged by a food distributor for transporting qualified donation items to a food bank.

(4) Credits may not be claimed under this section for qualified donation items donated on or after July 1, 2034.

(5) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) The following definitions apply to this section unless the context clearly requires otherwise.

(a) "Qualified donation item" includes, but is not limited to, fresh fruits or fresh vegetables; fresh meat, including poultry; eggs; rice; beans; infant formula; vegetable oil and olive oil; soup; pasta sauce; salsa; bread; pasta; and canned meats and canned seafood. "Qualified donation item" also includes the fuel cost charged by a distributor for transporting qualified donation items to a food bank.

(b) "Qualified food bank" means a nonprofit organization primarily engaged in stocking food and other basic provisions to supply free of charge to people in need.

(c) "Qualified food retailer" means:

(i) A business primarily engaged in retailing a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry; and

(ii) A business primarily engaged in retailing a general line of groceries, including a significant amount and variety of fresh fruits, vegetables, dairy products, meats, and other perishable groceries, in combination with a general line of new merchandise, such as apparel, furniture, and appliances.

(d) "Qualified value" is the total purchase price of the qualified taxpayer's qualified donation items.

(7) This section expires January 1, 2038.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference in section 2 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to encourage the donation of food items to food banks by food retailers.

(4) To measure the effectiveness of the tax credit provided in section 2 of this act, the joint legislative audit and review committee must evaluate the year-to-year change in the number of taxpayers claiming the tax credit under section 2 of this act and the year-to-year change in the amount of credit claimed by taxpayers. The legislature intends to extend the tax credit under section 2 of this act if the total value of qualified donation items, as defined in section 2 of this act, has increased over the period of evaluation.

NEW SECTION. **Sec.**  This act takes effect July 1, 2024.

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