

FIRST REGULAR SESSION  
[P E R F E C T E D]  
SENATE SUBSTITUTE NO. 2 FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 22 & 106**  
**91ST GENERAL ASSEMBLY**

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INTRODUCED BY SENATOR SINGLETON.

Offered April 9, 2001.

Senate Substitute No. 2 adopted, April 9, 2001.

Taken up for Perfection April 9, 2001. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0202S.16P

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**AN ACT**

To repeal section 135.095, RSMo 2000, relating to prescription drugs for the elderly and to enact in lieu thereof twelve new sections relating to the same subject, with an emergency clause for certain sections and a contingent termination date for a certain section.

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

Section A. Section 135.095, RSMo 2000, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 135.095, 660.700, 660.703, 660.706, 660.709, 660.712, 660.715, 660.718, 660.721, 660.724, 660.727 and 660.729, to read as follows:

135.095. **1.** For all tax years beginning on or after January 1, 1999, but before January 1, 2005, a resident individual who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars

for every hundred dollars such individual's income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds an individual's tax liability.

**2. The provisions of this section shall terminate December 31, 2001. If the provisions of sections 660.700 to 660.729 are enacted, one-twelfth of the tax credit allowed pursuant to this section shall be available for tax year 2002. If the provisions of sections 660.700 to 660.729 are not enacted, then the provisions of this section shall not terminate.**

**660.700. 1. For the purposes of sections 660.700 to 660.727, the following terms mean:**

- (1) "Department", the department of social services;**
- (2) "Fund", the Missouri pharmaceutical assistance fund created pursuant to section 660.729;**
- (3) "Prescription drugs", legend drugs prescribed to an individual with preference given to generic drugs unless specifically overwritten by a physician;**
- (4) "Task force", the Missouri pharmaceutical assistance program task force.**

**2. The "Missouri Pharmaceutical Assistance Program Task Force" is hereby created within the department of social services, which shall provide funding, administrative support and staff for the effective operation of the task force. The membership of the task force shall consist of:**

- (1) Two members appointed by the president pro tem of the senate, one member from each party;**
- (2) Two members appointed by the speaker of the house of representatives, one member from each party;**
- (3) Three members appointed by the governor, with the advice and consent of the senate one of whom must have experience with and knowledge of matters relating to health care;**
- (4) Two private citizens appointed by the governor with advice and consent of the senate;**
- (5) One representative of the department of social services;**
- (6) One representative of the department of health; and**
- (7) Three health care providers, two of which shall be physicians, licensed in this state pursuant to chapter 334, RSMo.**

**Each member appointed pursuant this subsection must be a resident of this state and must not be employed in the executive or judicial branch of state government.**

**3. Each person who appoints members pursuant to subsection 2 of this section**

shall ensure that, insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this state.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the task force.

**660.703. 1. The task force shall:**

(1) Conduct public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

- (a) Promote public health;
- (b) Improve health services for senior citizens;
- (c) Reduce or prevent the use of tobacco; and
- (d) Offer other information on health care in this state;

(2) Establish a process to evaluate the health needs of the senior citizens of this state and a system to rank the health problems of the senior citizens of this state, including, but not limited to, the specific health problems that are endemic to urban and rural communities;

(3) Maximize expenditures through local, state, federal and private matching contributions;

(4) Ensure that any money expended from the fund will not be used to supplant existing methods of funding that are available to public agencies;

(5) Develop policies and procedures for the administration and distribution of grants and other expenditures to nonprofit organizations, universities and community colleges. A condition of any such grant must be that not more than eight percent of the grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals;

(6) Transmit a report of all findings, recommendations and expenditures to the governor and the general assembly.

2. The task force may take such other actions as are necessary to carry out its duties.

3. The department shall request funding and propose legislation necessary to carry out the recommendations of the task force.

4. The task force shall submit a report by December 15, 2001, to the governor and the general assembly containing all proposed contracts submitted by private health insurers pursuant to section 660.706. If the general assembly rejects the recommendations of the task force within forty-five calendar days, the provisions of section 660.706 to 660.729 shall terminate.

**660.706. 1. The department may enter into contracts with private health insurers**

to arrange for the availability, at a reasonable cost which may include copayments and deductibles, of health insurance policies that provide coverage up to a maximum of six thousand dollars to senior citizens not covered by other programs for prescription drugs and pharmaceutical services.

2. Subject to appropriations, a senior citizen who is sixty-five years of age or older, who is not eligible for Medicaid, but who may be eligible for Medicare and who purchases a health insurance policy that is made available pursuant to subsection 1 of this section may receive an annual grant from the fund to subsidize a portion of the cost of that insurance if such senior citizen has been a resident of this state for at least one year immediately preceding the date of his or her application and his or her household income, as defined pursuant to section 135.010, RSMo, is at or below eleven thousand six hundred dollars for an individual and fifteen thousand seven hundred dollars for a couple. Any person who is receiving Medicaid shall not be eligible to participate in the Missouri pharmaceutical assistance program. The program is the payer of last resort. If a senior citizen has coverage for pharmaceutical benefits through a health benefit plan as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare + Choice plan, or through a self-funded employee benefit plan he or she shall not be eligible for the Missouri pharmaceutical assistance program. If a senior citizen receives a tax credit pursuant to section 135.095, RSMo, he or she shall not be eligible for the Missouri pharmaceutical assistance program. An applicant must not have had insurance with pharmaceutical coverage for six months prior to application to the Missouri pharmaceutical assistance program.

3. The amount of any subsidy granted pursuant to this section may not exceed the annual cost of insurance that provides coverage for prescription drugs and pharmaceutical services or eight hundred fifty dollars per year, whichever is less.

660.709. 1. A senior citizen who wishes to receive a subsidy pursuant to section 660.706 may file a request therefor with the department.

2. The request may be filed in such form and content, and accompanied by such proof, as the department may prescribe by rule.

3. The department may, within forty-five days after receiving a request for a subsidy, examine the request, grant or deny it, and if granted, may determine the amount of the subsidy to which the senior citizen is entitled.

4. The department may determine which senior citizens are eligible to receive a subsidy pursuant to section 660.706 and may pay the subsidy directly to an insurer with whom the department has entered into a contract pursuant to section 660.706.

660.712. Any subsidy granted pursuant to section 660.706 to a senior citizen who is not qualified for such a subsidy may be revoked by the department. If a subsidy is so

revoked, the senior citizen shall make restitution to the department for any subsidy he has improperly received, and the department may take all proper actions to collect the amount of the subsidy as a debt.

**660.715. 1.** The department may deny any request for a subsidy received pursuant to section 660.709 to which the senior citizen is not entitled or any amount in excess of that to which the senior citizen is entitled.

**2.** The department may deny in total any request which it finds to have been filed with fraudulent intent. If any such request has been paid and is afterward denied, the amount of the subsidy must be repaid by the senior citizen to the department.

**3.** Any amounts received by the department pursuant to this section must be deposited with the state treasurer for credit to the Missouri pharmaceutical assistance fund.

**660.718.** Any person who is aggrieved by a decision of the department denying a request for a subsidy submitted pursuant to section 660.709 may request administrative review pursuant to chapter 621, RSMo.

**660.721.** The department is responsible for the administration of the provisions of sections 660.700 to 660.729 and may promulgate rules in conjunction with the department of insurance and the department of health regarding:

**(1)** The content and form of a request for a subsidy required to be submitted pursuant to section 660.709;

**(2)** Designation of the proof that must be submitted with such a request;

**(3)** The adoption of regulations to protect the confidentiality of information supplied by a senior citizen requesting a subsidy pursuant to section 660.709;

**(4)** The adoption of such other regulations as may be required to carry out the provisions of sections 660.700 to 660.729;

**(5)** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**660.724.** The department may contract with a pharmacy benefit management program to manage the Missouri pharmaceutical assistance program and may contract with a drug utilization review program to review the Missouri pharmaceutical assistance program. Both contracts may be defined by the department by rule.

**660.727. No person may publish, disclose or use any personal or confidential information contained in a request for a subsidy submitted pursuant to section 660.709 except for purposes relating to the administration of sections 660.700 to 660.729.**

**660.729. 1. There is hereby created in the state treasury the "Missouri Pharmaceutical Assistance Fund" for the purpose of funding the Missouri pharmaceutical assistance program established pursuant to sections 660.700 to 660.729. After the termination of the expenses of section 135.095, RSMo, all moneys appropriated for the purpose of funding the pharmaceutical tax credit program, created within the department of revenue by section 135.095, RSMo, shall be removed from the department of revenue and reassigned to the department of social services to the credit of the Missouri pharmaceutical assistance fund for the purpose of funding the Missouri pharmaceutical assistance program, as created by sections 660.700 to 660.729. Such moneys shall be appropriated until such time as other funding, such as grants, gifts or other appropriations, becomes available.**

**2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

Section B. Because of the need for immediate prescription drug assistance for the elderly, the enactment of sections 660.700 to 660.729 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 660.700 to 660.729 of this act shall be in full force and effect upon its passage and approval.