

# SENATE BILL No. 510

May 29, 2001, Introduced by Senators MC MANUS, GAST, SIKKEMA, SMITH, HART, EMMONS, BULLARD, BENNETT, NORTH, STILLE, GOUGEON, YOUNG, PETERS, DE BEAUSSAERT and EMERSON and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending sections 4a and 4g (MCL 205.54a and 205.54g), section 4a as amended by 1999 PA 116 and section 4g as amended by 2000 PA 417.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 4a. (1) A person subject to tax under this act may  
2 exclude from the amount of the gross proceeds used for the compu-  
3 tation of the tax, a sale of tangible personal property, subject  
4 to subsection (2):

5       (a) Not for resale to a nonprofit school, nonprofit hospi-  
6 tal, or nonprofit home for the care and maintenance of children  
7 or aged persons operated by an entity of government, a regularly  
8 organized church, religious, or fraternal organization, a  
9 veterans' organization, or a corporation incorporated under the

1 laws of the state, if the income or benefit from the operation  
2 does not inure, in whole or in part, to an individual or private  
3 shareholder, directly or indirectly, and if the activities of the  
4 entity or agency are carried on exclusively for the benefit of  
5 the public at large and are not limited to the advantage, inter-  
6 ests, and benefits of its members or any restricted group. At  
7 the time of the transfer of this tangible personal property, the  
8 transferee shall sign a statement, in a form approved by the  
9 department, stating that the property is to be used or consumed  
10 in connection with the operation of the institution or agency and  
11 that the institution or agency qualifies as an exempt entity  
12 under this subdivision. The statement shall be accepted by all  
13 courts as prima facie evidence of the exemption and the statement  
14 shall provide that if the claim for tax exemption is disallowed  
15 the transferee will reimburse the transferor for the amount of  
16 tax involved. A sale of tangible personal property to a parent  
17 cooperative preschool is exempt from taxation under this act. As  
18 used in this subdivision, "parent cooperative preschool" means a  
19 nonprofit, nondiscriminatory educational institution, maintained  
20 as a community service and administered by parents of children  
21 currently enrolled in the preschool, that provides an educational  
22 and developmental program for children younger than compulsory  
23 school age, that provides an educational program for parents,  
24 including active participation with children in preschool activi-  
25 ties, that is directed by qualified preschool personnel, and that  
26 is licensed by the department of consumer and industry services  
27 pursuant to 1973 PA 116, MCL 722.111 to 722.128.

1 (b) Not for resale to a regularly organized church or house  
2 of religious worship, except the following:

3 (i) Sales in activities that are mainly commercial  
4 enterprises.

5 (ii) Sales of vehicles licensed for use on public highways  
6 other than a passenger van or bus with a manufacturer's rated  
7 seating capacity of 10 or more that is used primarily for the  
8 transportation of persons for religious purposes.

9 (c) To bona fide enrolled students, of food by a school or  
10 other educational institution not operated for profit.

11 (d) That is a vessel designated for commercial use of regis-  
12 tered tonnage of 500 tons or more, if produced upon special order  
13 of the purchaser, and bunker and galley fuel, provisions, sup-  
14 plies, maintenance, and repairs for the exclusive use of the  
15 vessel engaged in interstate commerce.

16 (e) To persons engaged in a business enterprise and using or  
17 consuming the tangible personal property in the tilling, plant-  
18 ing, caring for, or harvesting of the things of the soil; in the  
19 breeding, raising, or caring for livestock, poultry, or horticul-  
20 tural products, including transfers of livestock, poultry, or  
21 horticultural products for further growth; or in the direct gath-  
22 ering of fish, by net, line, or otherwise only by an  
23 owner-operator of the business enterprise, not including a  
24 charter fishing business enterprise. This exemption includes  
25 agricultural land tile, which means fired clay or perforated  
26 plastic tubing used as part of a subsurface drainage system for  
27 land, and subsurface irrigation pipe, if the land tile or

1 irrigation pipe is used in the production of agricultural  
2 products as a business enterprise. At the time of the transfer  
3 of this tangible personal property, the transferee shall sign a  
4 statement, in a form approved by the department, stating that the  
5 property is to be used or consumed in connection with the produc-  
6 tion of horticultural or agricultural products as a business  
7 enterprise, or in connection with fishing as an owner-operator  
8 business enterprise. The statement shall be accepted by all  
9 courts as prima facie evidence of the exemption. This exemption  
10 includes a portable grain bin, which means a structure that is  
11 used or is to be used to shelter grain and that is designed to be  
12 disassembled without significant damage to its component parts.  
13 This exemption also includes grain drying equipment and natural  
14 or propane gas used to fuel that equipment for agricultural  
15 purposes. This exemption does not include transfers of food,  
16 fuel, clothing, or any similar tangible personal property for  
17 personal living or human consumption. This exemption does not  
18 include tangible personal property permanently affixed and becom-  
19 ing a structural part of real estate.

20 (f) That is a copyrighted motion picture film or a newspaper  
21 or periodical admitted under federal postal laws and regulations  
22 effective September 1, 1985 as second-class mail matter or as a  
23 controlled circulation publication or qualified to accept legal  
24 notices for publication in this state, as defined by law, or any  
25 other newspaper or periodical of general circulation, established  
26 not less than 2 years, and published not less than once a week.  
27 Tangible personal property used or consumed in producing a

1 copyrighted motion picture film, a newspaper published more than  
2 14 times per year, or a periodical published more than 14 times  
3 per year, and not becoming a component part of that film, newspa-  
4 per, or periodical is subject to the tax. After December 31,  
5 1993, tangible personal property used or consumed in producing a  
6 newspaper published 14 times or less per year or a periodical  
7 published 14 times or less per year and that portion or percen-  
8 tage of tangible personal property used or consumed in producing  
9 an advertising supplement that becomes a component part of a  
10 newspaper or periodical is exempt from the tax under this  
11 subdivision. A claim for a refund for taxes paid before January  
12 1, 1999, under this subdivision shall be made before June 30,  
13 1999. For purposes of this subdivision, tangible personal prop-  
14 erty that becomes a component part of a newspaper or periodical  
15 and consequently not subject to tax includes an advertising sup-  
16 plement inserted into and circulated with a newspaper or periodi-  
17 cal that is otherwise exempt from tax under this subdivision, if  
18 the advertising supplement is delivered directly to the newspaper  
19 or periodical by a person other than the advertiser, or the  
20 advertising supplement is printed by the newspaper or  
21 periodical.

22 (g) To persons licensed to operate commercial radio or tele-  
23 vision stations if the property is used in the origination or  
24 integration of the various sources of program material for com-  
25 mercial radio or television transmission. This subdivision does  
26 not include a vehicle licensed and titled for use on public

1 highways or property used in the transmission to or receiving  
2 from an artificial satellite.

3       (h) That is a hearing aid, contact lenses if prescribed for  
4 a specific disease that precludes the use of eyeglasses, or any  
5 other apparatus, device, or equipment used to replace or substi-  
6 tute for a part of the human body, or used to assist the disabled  
7 person to lead a reasonably normal life if the tangible personal  
8 property is purchased on a written prescription or order issued  
9 by a health professional as defined by section ~~21005 of the~~  
10 ~~public health code, 1978 PA 368, MCL 333.21005~~ 3501 OF THE  
11 INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3501; a hearing aid  
12 battery; or eyeglasses prescribed or dispensed to correct the  
13 person's vision by an ophthalmologist, optometrist, or optician.

14       (i) That is a vehicle not for resale to a Michigan nonprofit  
15 corporation organized exclusively to provide a community with  
16 ambulance or fire department services.

17       (j) To inmates in a penal or correctional institution pur-  
18 chased with scrip issued and redeemed by the institution.

19       (k) To or for the use of students enrolled in any part of a  
20 kindergarten through twelfth grade program, of textbooks sold by  
21 a public or nonpublic school.

22       (l) Installed as a component part of a water pollution con-  
23 trol facility for which a tax exemption certificate is issued  
24 pursuant to part 37 of the natural resources and environmental  
25 protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air  
26 pollution control facility for which a tax exemption certificate  
27 is issued pursuant to part 59 of the natural resources and

1 environmental protection act, 1994 PA 451, MCL 324.5901 to  
2 324.5908.

3 (m) To a purchaser of a new motor vehicle purchased before  
4 January 1, 1993 if the purchaser qualifies for a special regis-  
5 tration under section 226(12) of the Michigan vehicle code, 1949  
6 PA 300, MCL 257.226, and the vehicle is purchased through a coun-  
7 try determined by the department to be providing a like or com-  
8 plete exemption for the purchase of a new motor vehicle to be  
9 removed from that country.

10 (n) That is the following sold or leased to an industrial  
11 laundry after December 31, 1997:

12 (i) Textiles and disposable products including, but not  
13 limited to, soap, paper, chemicals, tissues, deodorizers and dis-  
14 pensers, and all related items such as packaging, supplies, hang-  
15 ers, name tags, and identification tags.

16 (ii) Equipment, whether owned or leased, used to repair and  
17 dispense textiles including, but not limited to, roll towel cabi-  
18 nets, slings, hardware, lockers, mop handles and frames, and  
19 carts.

20 (iii) Machinery, equipment, parts, lubricants, and repair  
21 services used to clean, process, and package textiles and related  
22 items, whether owned or leased.

23 (iv) Utilities such as electric, gas, water, or oil.

24 (v) Production washroom equipment and mending and packaging  
25 supplies and equipment.

1 (vi) Material handling equipment including, but not limited  
2 to, conveyors, racks, and elevators and related control  
3 equipment.

4 (vii) Wastewater pretreatment equipment and supplies and  
5 related maintenance and repair services.

6 (o) To a person holding a direct payment permit under  
7 section 8 of the use tax act, 1937 PA 94, MCL 205.98.

8 (P) THAT IS A RETURNABLE PALLET OR CONTAINER LEASED TO A  
9 FARMER OR OTHER PERSON INVOLVED IN AGRICULTURAL PRODUCTION OR  
10 PROCESSING, INCLUDING, BUT NOT LIMITED TO, A PACKER, SHIPPER,  
11 MANUFACTURER, OR RETAILER.

12 (2) The tangible personal property under subsection (1) is  
13 exempt only to the extent that that property is used for the  
14 exempt purpose if one is stated in subsection (1). The exemption  
15 is limited to the percentage of exempt use to total use deter-  
16 mined by a reasonable formula or method approved by the  
17 department.

18 Sec. 4g. (1) A person subject to tax under this act may  
19 exclude from the amount of the gross proceeds used for the compu-  
20 tation of the tax 1 or more of the following:

21 (a) Sales of prescription drugs for human use or food for  
22 human consumption, except prepared food intended for immediate  
23 consumption.

24 (b) The deposit on a returnable container for a beverage,  
25 ~~or~~ the deposit on a carton or case that is used for returnable  
26 containers, OR THE LEASE COST OF RETURNABLE PALLETS AND  
27 CONTAINERS.



1 (c) Food or tangible personal property purchased with  
2 federal food stamps.

3 (d) Fruit or vegetable seeds and fruit or vegetable plants  
4 if purchased at a place of business authorized to accept food  
5 stamps by the food and nutrition service of the United States  
6 department of agriculture or a place of business that has made a  
7 complete and proper application for authorization to accept food  
8 stamps but has been denied authorization and provides proof of  
9 denial to the department of treasury.

10 (2) "Prescription drugs for human use" means insulin or a  
11 drug dispensed by a licensed pharmacist pursuant to a written  
12 prescription prescribed by a licensed physician or other health  
13 professional as defined by section ~~21005 of the public health~~  
14 ~~code, 1978 PA 368, MCL 333.21005~~ 3501 OF THE INSURANCE CODE OF  
15 1956, 1956 PA 218, MCL 500.3501, for the use of a designated  
16 person, or oxygen dispensed pursuant to a written prescription or  
17 order issued by a licensed physician or other health professional  
18 as defined in section ~~21005 of the public health code, 1978~~  
19 ~~PA 368, MCL 333.21005~~ 3501 OF THE INSURANCE CODE OF 1956, 1956  
20 PA 218, MCL 500.3501.

21 (3) "Food for human consumption" means all food and drink  
22 items, including bottled water, intended primarily for human con-  
23 sumption except beverages with an alcohol content of 1/2 of 1% or  
24 more by volume, tobacco and tobacco products, and prepared food  
25 intended for immediate consumption. Food for human consumption  
26 includes live animals purchased with the intent to be slaughtered  
27 for human consumption.

1       (4) "Prepared food intended for immediate consumption" means  
2 a retail sale of 1 or more of the following:

3       (a) Food or drink prepared and served for immediate consump-  
4 tion at or near the premises or ordinarily sold on a takeout  
5 basis for immediate consumption either on or off the premises.  
6 For the purposes of this section premises includes the total  
7 space and facilities in or on which a retailer conducts his or  
8 her business, including, but not limited to, parking areas for  
9 the convenience of in-car consumption, outdoor tables, benches,  
10 chairs, and similar conveniences.

11       (b) Food or drink furnished, prepared, or served for immedi-  
12 ate consumption at a table, chair, or counter or from a tray,  
13 glass, dish, container, or other tableware.

14       (c) Food or drink arranged on a plate or platter, whether  
15 intended for individual or multiple servings and whether sold by  
16 the pound or by the serving; a sandwich, either hot or cold; or a  
17 combination of taxable and nontaxable items when sold as a plate  
18 or packaged as a meal, even though intended for more than 1  
19 serving.

20       (d) Food that is cooked to the order of the purchaser, or  
21 that is cooked and maintained at a temperature higher than the  
22 surrounding air temperature before sale, or prepared food that is  
23 sold by the piece rather than by weight or measure.

24       (e) Food or drink heated or cooled mechanically, electrical-  
25 ly, or by other artificial means to an average temperature above  
26 75 degrees Fahrenheit or below 65 degrees ~~Fahrenheit~~ FAHRENHEIT  
27 before sale and sold from a mobile facility or vending machine,

1 except milk, nonalcoholic beverages in a sealed container, and  
2 fresh fruit. A refund shall not be made for any taxes paid after  
3 December 31, 1994 and before January 16, 1997 for food or drink  
4 otherwise exempt under this subdivision. The tax due under this  
5 act on the sale of food or drink from a vending machine selling  
6 both taxable items and items exempt under this subsection shall  
7 be calculated under this act after December 31, 1994 based on 1  
8 of the following as determined by the taxpayer:

9 (i) Actual gross proceeds from sales at retail.

10 (ii) Forty-five percent of proceeds from the sale of items  
11 subject to tax under this act or exempt from the tax levied under  
12 this act, other than from the sale of carbonated beverages.

13 (5) Prepared food intended for immediate consumption does  
14 not include bakery products for off-premises consumption, such as  
15 doughnuts, pastry, bread, and cakes; meals eligible to be pur-  
16 chased with federal food stamps; or nonalcoholic beverages and  
17 prepared food intended for immediate consumption provided during  
18 work hours for free or at a reduced rate to employees of food  
19 service establishments licensed by the Michigan department of  
20 agriculture. As used in this subsection, "food service  
21 establishment" means that term as defined in section 1107 of the  
22 food law of 2000, 2000 PA 92, MCL 289.1107.