

HOUSE BILL No. 5856

March 14, 2006, Introduced by Reps. Tobocman, Rocca and Bieda and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1 (MCL 205.51), as amended by 2004 PA 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Person" means an individual, firm, partnership, joint
3 venture, association, social club, fraternal organization,
4 municipal or private corporation whether organized for profit or
5 not, company, estate, trust, receiver, trustee, syndicate, the
6 United States, this state, county, or any other group or
7 combination acting as a unit, and includes the plural as well as
8 the singular number, unless the intention to give a more limited
9 meaning is disclosed by the context.

1 (b) "Sale at retail" or "retail sale" means a sale, lease, or
2 rental of tangible personal property for any purpose other than for
3 resale, sublease, or subrent.

4 (c) "Gross proceeds" means sales price.

5 (d) "Sales price" means the total amount of consideration,
6 including cash, credit, property, and services, for which tangible
7 personal property or services are sold, leased, or rented, valued
8 in money, whether received in money or otherwise, and applies to
9 the measure subject to sales tax. Sales price includes the
10 following subparagraphs (i) through (vi) and excludes subparagraphs
11 (vii) through ~~(viii)~~ (ix):

12 (i) Seller's cost of the property sold.

13 (ii) Cost of materials used, labor or service cost, interest,
14 losses, costs of transportation to the seller, taxes imposed on the
15 seller other than taxes imposed by this act, and any other expense
16 of the seller.

17 (iii) Charges by the seller for any services necessary to
18 complete the sale, other than the following:

19 (A) An amount received or billed by the taxpayer for
20 remittance to the employee as a gratuity or tip, if the gratuity or
21 tip is separately identified and itemized on the guest check or
22 billed to the customer.

23 (B) Labor or service charges involved in maintenance and
24 repair work on tangible personal property of others if separately
25 itemized.

26 (iv) Delivery charges incurred or to be incurred before the
27 completion of the transfer of ownership of tangible personal

1 property from the seller to the purchaser.

2 (v) Installation charges incurred or to be incurred before the
3 completion of the transfer of ownership of tangible personal
4 property from the seller to the purchaser.

5 (vi) Credit for any trade-in.

6 (vii) Interest, financing, or carrying charges from credit
7 extended on the sale of personal property or services, if the
8 amount is separately stated on the invoice, bill of sale, or
9 similar document given to the purchaser.

10 (viii) Any taxes legally imposed directly on the consumer that
11 are separately stated on the invoice, bill of sale, or similar
12 document given to the purchaser.

13 **(ix) A CORE CHARGE ATTRIBUTABLE TO A RECYCLING FEE, DEPOSIT, OR**
14 **DISPOSAL FEE FOR AN AUTOMOBILE PART OR AUTOMOBILE BATTERY.**

15 (e) "Business" includes an activity engaged in by a person or
16 caused to be engaged in by that person with the object of gain,
17 benefit, or advantage, either direct or indirect.

18 (f) "Tax year" or "taxable year" means the fiscal year of the
19 state or the taxpayer's fiscal year if permission is obtained by
20 the taxpayer from the department to use the taxpayer's fiscal year
21 as the tax period instead.

22 (g) "Department" means the department of treasury.

23 (h) "Taxpayer" means a person subject to a tax under this act.

24 (i) "Tax" includes a tax, interest, or penalty levied under
25 this act.

26 (j) "Textiles" means goods that are made of or incorporate
27 woven or nonwoven fabric, including, but not limited to, clothing,

1 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,
2 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor
3 mops, floor mats, and thread. Textiles also include materials used
4 to repair or construct textiles, or other goods used in the rental,
5 sale, or cleaning of textiles.

6 (2) If the department determines that it is necessary for the
7 efficient administration of this act to regard an unlicensed
8 person, including a salesperson, representative, peddler, or
9 canvasser as the agent of the dealer, distributor, supervisor, or
10 employer under whom the unlicensed person operates or from whom the
11 unlicensed person obtains the tangible personal property sold by
12 the unlicensed person, irrespective of whether the unlicensed
13 person is making sales on the unlicensed person's own behalf or on
14 behalf of the dealer, distributor, supervisor, or employer, the
15 department may so regard the unlicensed person and may regard the
16 dealer, distributor, supervisor, or employer as making sales at
17 retail at the retail price for the purposes of this act.