



HOUSE BILL No. 5175

December 8, 1999, Introduced by Reps. Switalski, Prusi, DeHart, Spade, Hale, Martinez, Kelly, Dennis, Woodward, Minore, Rivet and Lemmons and referred to the Committee on Tax Policy.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4g. (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 1 or more of the following:

4 (a) Sales of prescription drugs for human use or food for
5 human consumption, except prepared food intended for immediate
6 consumption.

7 (b) The deposit on a returnable container for a beverage or
8 the deposit on a carton or case that is used for returnable
9 containers.

10 (c) Food or tangible personal property purchased with
11 federal food stamps.

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

8 (2) "Prescription drugs for human use" means insulin or a
9 drug dispensed by a licensed pharmacist pursuant to a written
10 prescription prescribed by a licensed physician or other health
11 professional as defined by section 21005 of the public health
12 code, 1978 PA 368, MCL 333.21005, for the use of a designated
13 person, or oxygen dispensed pursuant to a written prescription or
14 order issued by a licensed physician or other health professional
15 as defined in section 21005 of the public health code, 1978
16 PA 368, MCL 333.21005.

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

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

26 (a) Food or drink prepared and served for immediate
27 consumption at or near the premises or ordinarily sold on a

1 takeout basis for immediate consumption either on or off the
2 premises. For the purposes of this section premises includes the
3 total space and facilities in or on which a retailer conducts his
4 or her business, including, but not limited to, parking areas for
5 the convenience of in-car consumption, outdoor tables, benches,
6 chairs, and similar conveniences.

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

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

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

20 (e) After December 31, 1994, carbonated beverages sold from
21 a mobile facility or vending machine, or food or drink heated or
22 cooled mechanically, electrically, or by other artificial means
23 to an average temperature above 75 degrees fahrenheit or below 65
24 degrees fahrenheit before sale and sold from a mobile facility or
25 vending machine, except milk, noncarbonated beverages containing
26 10% or more juice content, and fresh fruit. A refund shall not
27 be made for any taxes paid after December 31, 1994 and before

1 January 16, 1997 for food or drink otherwise exempt under this
2 subdivision. The tax due under this act on the sale of food or
3 drink from a vending machine selling both taxable items and items
4 exempt under this subsection shall be calculated under this act
5 after December 31, 1994 based on 1 of the following as determined
6 by the taxpayer:

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

8 (ii) The sum of proceeds from carbonated beverages and 45%
9 of proceeds from the sale of items subject to tax under this act
10 or exempt from the tax levied under this act, other than from the
11 sale of carbonated beverages.

12 (5) Prepared food intended for immediate consumption does
13 not include bakery products for off-premises consumption, such as
14 doughnuts, pastry, bread, and cakes or meals eligible to be pur-
15 chased with federal food stamps.

16 (6) PREPARED FOOD INTENDED FOR IMMEDIATE CONSUMPTION DOES
17 NOT INCLUDE ITEMS SOLD AT A STATE PARK CONCESSION IF THOSE ITEMS
18 WOULD NOT BE TAXABLE IF PURCHASED AT A GROCERY STORE, SUCH AS
19 FRESH EGGS, BOXES OF CEREAL, OR A LOAF OF BREAD.