

**SUBSTITUTE FOR
HOUSE BILL NO. 5736**

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 2, 3, 4, and 4k (MCL 205.92, 205.93, 205.94,
and 205.94k), sections 2 and 3 as amended by 2002 PA 511, section
4 as amended by 2002 PA 456, and section 4k as amended by 2000 PA
200.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Person" means an individual, firm, partnership, joint
3 venture, association, social club, fraternal organization, munic-
4 ipal or private corporation whether or not organized for profit,
5 company, limited liability company, estate, trust, receiver,
6 trustee, syndicate, the United States, this state, county, or any
7 other group or combination acting as a unit, and the plural as

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1 well as the singular number, unless the intention to give a more
2 limited meaning is disclosed by the context.

3 (b) "Use" means the exercise of a right or power over tangi-
4 ble personal property incident to the ownership of that property
5 including transfer of the property in a transaction where posses-
6 sion is given.

7 (c) "Storage" means a keeping or retention of property in
8 this state for any purpose after the property loses its inter-
9 state character.

10 (d) "Seller" means the person from whom a purchase is made
11 and includes every person selling tangible personal property or
12 services for storage, use, or other consumption in this state.
13 If, in the opinion of the department, it is necessary for the
14 efficient administration of this act to regard a salesperson,
15 representative, peddler, or canvasser as the agent of a dealer,
16 distributor, supervisor, or employer under whom the person oper-
17 ates or from whom he or she obtains tangible personal property or
18 services sold by him or her for storage, use, or other consump-
19 tion in this state, irrespective of whether or not he or she is
20 making the sales on his or her own behalf or on behalf of the
21 dealer, distributor, supervisor, or employer, the department may
22 so consider him or her, and may consider the dealer, distributor,
23 supervisor, or employer as the seller for the purpose of this
24 act.

25 (e) "Purchase" means to acquire for a consideration, whether
26 the acquisition is effected by a transfer of title, of
27 possession, or of both, or a license to use or consume; whether

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1 the transfer is absolute or conditional, and by whatever means
2 the transfer is effected; and whether consideration is a price or
3 rental in money, or by way of exchange or barter.

4 (f) "Price" means the aggregate value in money of anything
5 paid or delivered, or promised to be paid or delivered, by a con-
6 sumer to a seller in the consummation and complete performance of
7 the transaction by which tangible personal property or services
8 are purchased or rented for storage, use, or other consumption in
9 this state, without a deduction for the cost of the property
10 sold, cost of materials used, labor or service cost, interest or
11 discount paid, or any other expense. The price of tangible per-
12 sonal property, for affixation to real estate, withdrawn by a
13 construction contractor from inventory available for sale to
14 others or made available by publication or price list as a fin-
15 ished product for sale to others is the finished goods inventory
16 value of the property. If a construction contractor manufac-
17 tures, fabricates, or assembles tangible personal property before
18 affixing it to real estate, the price of the property is equal to
19 the sum of the materials cost of the property and the cost of
20 labor to manufacture, fabricate, or assemble the property but
21 does not include the cost of labor to cut, bend, assemble, or
22 attach property at the site of affixation to real estate. For
23 the purposes of the preceding sentence, for property withdrawn by
24 a construction contractor from inventory available for sale to
25 others or made available by publication or price list as a fin-
26 ished product for sale to others, the materials cost of the
27 property means the finished goods inventory value of the

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1 property. For purposes of this subdivision, "manufacture" means
2 to convert or condition tangible personal property by changing
3 the form, composition, quality, combination, or character of the
4 property and "fabricate" means to modify or prepare tangible per-
5 sonal property for affixation or assembly. The price of a motor
6 vehicle, trailer coach, or titled watercraft is the full retail
7 price of the motor vehicle, trailer coach, or titled watercraft
8 being purchased. The tax collected by the seller from the con-
9 sumer or lessee under this act is not considered part of the
10 price, but is a tax collection for the benefit of the state, and
11 a person other than the state shall not derive a benefit from the
12 collection or payment of this tax. A price does not include an
13 assessment imposed under the convention and tourism marketing
14 act, 1980 PA 383, MCL 141.881 to 141.889, 1974 PA 263,
15 MCL 141.861 to 141.867, the state convention facility development
16 act, 1985 PA 106, MCL 207.621 to 207.640, the regional tourism
17 marketing act, 1989 PA 244, MCL 141.891 to 141.900, 1991 PA 180,
18 MCL 207.751 to 207.759, or the community convention or tourism
19 marketing act, 1980 PA 395, MCL 141.871 to 141.880, that was
20 added to charges for rooms or lodging otherwise subject, pursuant
21 to section 3a, to tax under this act. Price does not include
22 specific charges for technical support or for adapting or modify-
23 ing prewritten, standard, or canned computer software programs to
24 a purchaser's needs or equipment if the charges are separately
25 stated and identified. The tax imposed under this act shall not
26 be computed or collected on rental receipts if the tangible

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1 personal property rented or leased has previously been subjected
2 to a Michigan sales or use tax when purchased by the lessor.

3 (g) "Consumer" means the person who has purchased tangible
4 personal property or services for storage, use, or other consump-
5 tion in this state and includes a person acquiring tangible per-
6 sonal property if engaged in the business of constructing, alter-
7 ing, repairing, or improving the real estate of others.

8 (h) "Business" means all activities engaged in by a person
9 or caused to be engaged in by a person with the object of gain,
10 benefit, or advantage, either direct or indirect.

11 (i) "Department" means the revenue division of the depart-
12 ment of treasury.

13 (j) "Tax" includes all taxes, interest, or penalties levied
14 under this act.

15 (k) "Tangible personal property" includes computer software
16 offered for general use by the public or software modified or
17 adapted to the user's needs or equipment by the seller, only if
18 the software is available from a seller of software on an as is
19 basis or as an end product without modification or adaptation.
20 Tangible personal property does not include computer software
21 originally designed for the exclusive use and special needs of
22 the purchaser. As used in this subdivision, "computer software"
23 means a set of statements or instructions that when incorporated
24 in a machine usable medium is capable of causing a machine or
25 device having information processing capabilities to indicate,
26 perform, or achieve a particular function, task, or result.

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1 (l) "Tangible personal property" beginning September 20,
2 1999, includes electricity, natural or artificial gas, or steam
3 and also the transmission and distribution of electricity used by
4 the consumer or user of the electricity, whether the electricity
5 is purchased from the delivering utility or from another
6 provider.

7 (m) "Tangible personal property" does not include a commer-
8 cial advertising element if the commercial advertising element is
9 used to create or develop a print, radio, television, or other
10 advertisement, the commercial advertising element is discarded or
11 returned to the provider after the advertising message is com-
12 pleted, and the commercial advertising element is custom devel-
13 oped by the provider for the purchaser. As used in this subdivi-
14 sion, "commercial advertising element" means a negative or posi-
15 tive photographic image, an audiotape or videotape master, a
16 layout, a manuscript, writing of copy, a design, artwork, an
17 illustration, retouching, and mechanical or keyline
18 instructions. "Tangible personal property" includes black and
19 white or full color process separation elements, an audiotape
20 reproduction, or a videotape reproduction.

21 (n) "Textiles" means goods that are made of or incorporate
22 woven or nonwoven fabric, including, but not limited to, cloth-
23 ing, shoes, hats, gloves, handkerchiefs, curtains, towels,
24 sheets, pillows, pillowcases, tablecloths, napkins, aprons,
25 linens, floor mops, floor mats, and thread. Textiles also
26 include materials used to repair or construct textiles, or other
27 goods used in the rental, sale, or cleaning of textiles.

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1 (O) "INTERSTATE MOTOR CARRIER" MEANS A PERSON WHO OPERATES
2 OR CAUSES TO BE OPERATED A QUALIFIED COMMERCIAL MOTOR VEHICLE ON
3 A PUBLIC ROAD OR HIGHWAY IN THIS STATE AND AT LEAST 1 OTHER STATE
4 OR CANADIAN PROVINCE.

5 (P) "QUALIFIED COMMERCIAL MOTOR VEHICLE" MEANS THAT TERM AS
6 DEFINED IN SECTION 1(I), (J), AND (K) OF THE MOTOR CARRIER FUEL
7 TAX ACT, 1980 PA 119, MCL 207.211.

8 (Q) "DIESEL FUEL" MEANS THAT TERM AS DEFINED IN SECTION 2(P)
9 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1002.

10 Sec. 3. (1) There is levied upon and there shall be col-
11 lected from every person in this state a specific tax for the
12 privilege of using, storing, or consuming tangible personal prop-
13 erty in this state at a rate equal to 6% of the price of the
14 property or services specified in section 3a or 3b. Penalties
15 and interest shall be added to the tax if applicable as provided
16 in this act. For the purpose of the proper administration of
17 this act and to prevent the evasion of the tax, it is presumed
18 that tangible personal property purchased is subject to the tax
19 if brought into the state within 90 days of the purchase date and
20 is considered as acquired for storage, use, or other consumption
21 in this state. BEGINNING OCTOBER 1, 2002, AS USED IN THIS SUB-
22 SECTION AND SECTION 4(1)(A), THE TERM "PRICE" MEANS, WITH RESPECT
23 TO DIESEL FUEL USED BY INTERSTATE MOTOR CARRIERS IN A QUALIFIED
24 COMMERCIAL MOTOR VEHICLE, THE STATEWIDE AVERAGE RETAIL PRICE OF A
25 GALLON OF SELF-SERVE DIESEL FUEL AS DETERMINED AND CERTIFIED
26 QUARTERLY BY THE DEPARTMENT, ROUNDED [DOWN] TO THE NEAREST 1/10 OF A
27 CENT. THIS USE TAX ON DIESEL FUEL USED BY INTERSTATE MOTOR

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1 CARRIERS IN A QUALIFIED COMMERCIAL MOTOR VEHICLE SHALL BE
2 COLLECTED UNDER THE INTERNATIONAL FUEL TAX AGREEMENT.

3 (2) The tax imposed by this section for the privilege of
4 using, storing, or consuming a vehicle, ORV, manufactured hous-
5 ing, aircraft, snowmobile, or watercraft shall be collected
6 before the transfer of the vehicle, ORV, manufactured housing,
7 aircraft, snowmobile, or watercraft, except a transfer to a
8 licensed dealer or retailer for purposes of resale that arises by
9 reason of a transaction made by a person who does not transfer
10 vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or
11 watercraft in the ordinary course of his or her business done in
12 this state. The tax on a vehicle, ORV, snowmobile, and water-
13 craft shall be collected by the secretary of state before the
14 transfer of the vehicle, ORV, snowmobile, or watercraft
15 registration. The tax on manufactured housing shall be collected
16 by the department of consumer and industry services, mobile home
17 commission, or its agent before the transfer of the certificate
18 of title. The tax on an aircraft shall be collected by the
19 department of treasury. Notwithstanding any limitation contained
20 in section 2 and except as provided in this subsection, the price
21 tax base of any vehicle, ORV, manufactured housing, aircraft,
22 snowmobile, or watercraft subject to taxation under this act
23 shall be not less than its retail dollar value at the time of
24 acquisition as fixed pursuant to rules promulgated by the
25 department. The price tax base of a new or previously owned car
26 or truck held for resale by a dealer and that is not exempt under
27 section 4(1)(c) is the purchase price of the car or truck

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1 multiplied by 2.5% plus \$30.00 per month beginning with the month
2 that the dealer uses the car or truck in a nonexempt manner.

3 (3) The following transfers or purchases are not subject to
4 use tax:

5 (a) A transaction or a portion of a transaction if the
6 transferee or purchaser is the spouse, mother, father, brother,
7 sister, child, stepparent, stepchild, stepbrother, stepsister,
8 grandparent, grandchild, legal ward, or a legally appointed
9 guardian with a certified letter of guardianship, of the
10 transferor.

11 (b) A transaction or a portion of a transaction if the
12 transfer is a gift to a beneficiary in the administration of an
13 estate.

14 (c) If a vehicle, ORV, manufactured housing, aircraft, snow-
15 mobile, or watercraft that has once been subjected to the
16 Michigan sales or use tax is transferred in connection with the
17 organization, reorganization, dissolution, or partial liquidation
18 of an incorporated or unincorporated business and the beneficial
19 ownership is not changed.

20 (d) If an insurance company licensed to conduct business in
21 this state acquires ownership of a late model distressed vehicle
22 as defined in section 12a of the Michigan vehicle code, 1949
23 PA 300, MCL 257.12a, through payment of damages in response to a
24 claim or when the person who owned the vehicle before the insur-
25 ance company reacquires ownership from the company as part of the
26 settlement of a claim.

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1 (4) The department may utilize the services, information, or
2 records of any other department or agency of state government in
3 the performance of its duties under this act, and other depart-
4 ments or agencies of state government are required to furnish
5 those services, information, or records upon the request of the
6 department.

7 Sec. 4. (1) The tax levied under this act does not apply to
8 the following, subject to subsection (2):

9 (a) Property sold in this state on which transaction a tax
10 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
11 to 205.78, if the tax was due and paid on the retail sale to a
12 consumer. BEGINNING OCTOBER 1, 2002, IN LIEU OF THE EXCLUSION IN
13 THIS SUBDIVISION, AN INTERSTATE MOTOR CARRIER SHALL BE ENTITLED
14 TO A CREDIT UNDER THIS ACT FOR 6% OF THE PRICE OF DIESEL FUEL
15 PURCHASED IN THIS STATE AND USED IN A QUALIFIED COMMERCIAL MOTOR
16 VEHICLE. THIS CREDIT SHALL BE CLAIMED ON THE RETURNS FILED UNDER
17 THE INTERNATIONAL FUEL TAX AGREEMENT.

18 (b) Property, the storage, use, or other consumption of
19 which this state is prohibited from taxing under the constitution
20 or laws of the United States, or under the constitution of this
21 state.

22 (c) Property purchased for resale, demonstration purposes,
23 or lending or leasing to a public or parochial school offering a
24 course in automobile driving except that a vehicle purchased by
25 the school shall be certified for driving education and shall not
26 be reassigned for personal use by the school's administrative
27 personnel. For a dealer selling a new car or truck, exemption

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1 for demonstration purposes shall be determined by the number of
2 new cars and trucks sold during the current calendar year or the
3 immediately preceding year without regard to specific make or
4 style according to the following schedule of 0 to 25, 2 units; 26
5 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but
6 not to exceed 25 cars and trucks in 1 calendar year for demon-
7 stration purposes. Property purchased for resale includes promo-
8 tional merchandise transferred pursuant to a redemption offer to
9 a person located outside this state or any packaging material,
10 other than promotional merchandise, acquired for use in fulfill-
11 ing a redemption offer or rebate to a person located outside this
12 state.

13 (d) Property that is brought into this state by a nonresi-
14 dent person for storage, use, or consumption while temporarily
15 within this state, except if the property is used in this state
16 in a nontransitory business activity for a period exceeding 15
17 days. BEGINNING OCTOBER 1, 2002, THIS SUBDIVISION DOES NOT APPLY
18 TO DIESEL FUEL THAT IS USED, STORED, OR CONSUMED IN THIS STATE BY
19 INTERSTATE MOTOR CARRIERS IN QUALIFIED COMMERCIAL VEHICLES.

20 (e) Property the sale or use of which was already subjected
21 to a sales tax or use tax equal to, or in excess of, that imposed
22 by this act under the law of any other state or a local govern-
23 mental unit within a state if the tax was due and paid on the
24 retail sale to the consumer and the state or local governmental
25 unit within a state in which the tax was imposed accords like or
26 complete exemption on property the sale or use of which was
27 subjected to the sales or use tax of this state. If the sale or

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1 use of property was already subjected to a tax under the law of
2 any other state or local governmental unit within a state in an
3 amount less than the tax imposed by this act, this act shall
4 apply, but at a rate measured by the difference between the rate
5 provided in this act and the rate by which the previous tax was
6 computed. BEGINNING OCTOBER 1, 2002, THIS SUBDIVISION DOES NOT
7 APPLY TO DIESEL FUEL THAT IS USED, STORED, OR CONSUMED IN THIS
8 STATE BY INTERSTATE MOTOR CARRIERS IN QUALIFIED MOTOR VEHICLES.

9 (f) Property sold to a person engaged in a business enter-
10 prise and using and consuming the property in the tilling, plant-
11 ing, caring for, or harvesting of the things of the soil or in
12 the breeding, raising, or caring for livestock, poultry, or
13 horticultural products, including transfers of livestock, poul-
14 try, or horticultural products for further growth. At the time
15 of the transfer of that tangible personal property, the trans-
16 feree shall sign a statement, in a form approved by the depart-
17 ment, stating that the property is to be used or consumed in con-
18 nection with the production of horticultural or agricultural pro-
19 ducts as a business enterprise. The statement shall be accepted
20 by the courts as prima facie evidence of the exemption. This
21 exemption includes agricultural land tile, which means fired clay
22 or perforated plastic tubing used as part of a subsurface drain-
23 age system for land used in the production of agricultural pro-
24 ducts as a business enterprise and includes a portable grain bin,
25 which means a structure that is used or is to be used to shelter
26 grain and that is designed to be disassembled without significant
27 damage to its component parts. This exemption does not include

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1 transfers of food, fuel, clothing, or similar tangible personal
2 property for personal living or human consumption. This exemp-
3 tion does not include tangible personal property permanently
4 affixed and becoming a structural part of real estate.

5 (g) Property or services sold to the United States, an unin-
6 corporated agency or instrumentality of the United States, an
7 incorporated agency or instrumentality of the United States
8 wholly owned by the United States or by a corporation wholly
9 owned by the United States, the American red cross and its chap-
10 ters or branches, this state, a department or institution of this
11 state, or a political subdivision of this state.

12 (h) Property or services sold to a school, hospital, or home
13 for the care and maintenance of children or aged persons, oper-
14 ated by an entity of government, a regularly organized church,
15 religious, or fraternal organization, a veterans' organization,
16 or a corporation incorporated under the laws of this state, if
17 not operated for profit, and if the income or benefit from the
18 operation does not inure, in whole or in part, to an individual
19 or private shareholder, directly or indirectly, and if the activ-
20 ities of the entity or agency are carried on exclusively for the
21 benefit of the public at large and are not limited to the advan-
22 tage, interests, and benefits of its members or a restricted
23 group. The tax levied does not apply to property or services
24 sold to a parent cooperative preschool. As used in this subdivi-
25 sion, "parent cooperative preschool" means a nonprofit, nondis-
26 criminatory educational institution, maintained as a community
27 service and administered by parents of children currently

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1 enrolled in the preschool that provides an educational and
2 developmental program for children younger than compulsory school
3 age, that provides an educational program for parents, including
4 active participation with children in preschool activities, that
5 is directed by qualified preschool personnel, and that is
6 licensed by the department of consumer and industry services pur-
7 suant to 1973 PA 116, MCL 722.111 to 722.128.

8 (i) Property or services sold to a regularly organized
9 church or house of religious worship except the following:

10 (i) Sales in which the property is used in activities that
11 are mainly commercial enterprises.

12 (ii) Sales of vehicles licensed for use on the public high-
13 ways other than a passenger van or bus with a manufacturer's
14 rated seating capacity of 10 or more that is used primarily for
15 the transportation of persons for religious purposes.

16 (j) A vessel designed for commercial use of registered ton-
17 nage of 500 tons or more, if produced upon special order of the
18 purchaser, and bunker and galley fuel, provisions, supplies,
19 maintenance, and repairs for the exclusive use of a vessel of 500
20 tons or more engaged in interstate commerce.

21 (k) Property purchased for use in this state where actual
22 personal possession is obtained outside this state, the purchase
23 price or actual value of which does not exceed \$10.00 during 1
24 calendar month.

25 (l) A newspaper or periodical classified under federal
26 postal laws and regulations effective September 1, 1985 as
27 second-class mail matter or as a controlled circulation

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

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1 (m) Property purchased by persons licensed to operate a
2 commercial radio or television station if the property is used in
3 the origination or integration of the various sources of program
4 material for commercial radio or television transmission. This
5 subdivision does not include a vehicle licensed and titled for
6 use on public highways or property used in the transmitting to or
7 receiving from an artificial satellite.

8 (n) A person who is a resident of this state who purchases
9 an automobile in another state while in the military service of
10 the United States and who pays a sales tax in the state where the
11 automobile is purchased.

12 (o) A vehicle for which a special registration is secured in
13 accordance with section 226(12) of the Michigan vehicle code,
14 1949 PA 300, MCL 257.226.

15 (p) A hearing aid, contact lenses if prescribed for a spe-
16 cific disease that precludes the use of eyeglasses, or any other
17 apparatus, device, or equipment used to replace or substitute for
18 any part of the human body, or used to assist the disabled person
19 to lead a reasonably normal life when the tangible personal prop-
20 erty is purchased on a written prescription or order issued by a
21 health professional as defined by section 4 of former 1974
22 PA 264, or section 3501 of the insurance code of 1956, 1956
23 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to
24 correct the person's vision by an ophthalmologist, optometrist,
25 or optician.

26 (q) Water when delivered through water mains or in bulk
27 tanks in quantities of not less than 500 gallons.

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1 (r) A vehicle not for resale used by a nonprofit corporation
2 organized exclusively to provide a community with ambulance or
3 fire department services.

4 (s) Tangible personal property purchased and installed as a
5 component part of a water pollution control facility for which a
6 tax exemption certificate is issued pursuant to part 37 of the
7 natural resources and environmental protection act, 1994 PA 451,
8 MCL 324.3701 to 324.3708, or an air pollution control facility
9 for which a tax exemption certificate is issued pursuant to part
10 59 of the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.5901 to 324.5908.

12 (t) Tangible real or personal property donated by a manufac-
13 turer, wholesaler, or retailer to an organization or entity
14 exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b)
15 of the general sales tax act, 1933 PA 167, MCL 205.54a.

16 (u) The storage, use, or consumption by a domestic air car-
17 rier of an aircraft purchased after December 31, 1992 but before
18 October 1, 1996 for use solely in the transport of air cargo that
19 has a maximum certificated takeoff weight of at least 12,500
20 pounds. For purposes of this subdivision, the term "domestic air
21 carrier" is limited to entities engaged in the commercial trans-
22 port for hire of cargo or entities engaged in the commercial
23 transport of passengers as a business activity.

24 (v) The storage, use, or consumption by a domestic air car-
25 rier of an aircraft purchased after June 30, 1994 but before
26 October 1, 1996 that is used solely in the regularly scheduled
27 transport of passengers. For purposes of this subdivision, the

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1 term "domestic air carrier" is limited to entities engaged in the
2 commercial transport for hire of cargo or entities engaged in the
3 commercial transport of passengers as a business activity.

4 (w) The storage, use, or consumption by a domestic air car-
5 rier of an aircraft, other than an aircraft described under
6 subdivision (v), purchased after December 31, 1994 but before
7 October 1, 1996, that has a maximum certificated takeoff weight
8 of at least 12,500 pounds and that is designed to have a maximum
9 passenger seating configuration of more than 30 seats and used
10 solely in the transport of passengers. For purposes of this sub-
11 division, the term "domestic air carrier" is limited to entities
12 engaged in the commercial transport for hire of cargo or entities
13 engaged in the commercial transport of passengers as a business
14 activity.

15 (x) The storage, use, or consumption of an aircraft by a
16 domestic air carrier after September 30, 1996 for use solely in
17 the transport of air cargo, passengers, or a combination of air
18 cargo and passengers, that has a maximum certificated takeoff
19 weight of at least 6,000 pounds. For purposes of this subdivi-
20 sion, the term "domestic air carrier" is limited to a person
21 engaged primarily in the commercial transport for hire of air
22 cargo, passengers, or a combination of air cargo and passengers
23 as a business activity. The state treasurer shall estimate on
24 January 1 each year the revenue lost by this act from the school
25 aid fund and deposit that amount into the school aid fund from
26 the general fund.

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1 (y) The storage, use, or consumption of an aircraft by a
2 person who purchases the aircraft for subsequent lease to a
3 domestic air carrier operating under a certificate issued by the
4 federal aviation administration under 14 C.F.R. part 121, for use
5 solely in the regularly scheduled transport of passengers.

6 (z) Property or services sold to an organization not oper-
7 ated for profit and exempt from federal income tax under section
8 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26
9 U.S.C. 501; or to a health, welfare, educational, cultural arts,
10 charitable, or benevolent organization not operated for profit
11 that has been issued before June 13, 1994 an exemption ruling
12 letter to purchase items exempt from tax signed by the adminis-
13 trator of the sales, use, and withholding taxes division of the
14 department. The department shall reissue an exemption letter
15 after June 13, 1994 to each of those organizations that had an
16 exemption letter that shall remain in effect unless the organiza-
17 tion fails to meet the requirements that originally entitled it
18 to this exemption. The exemption does not apply to sales of tan-
19 gible personal property and sales of vehicles licensed for use on
20 public highways, that are not used primarily to carry out the
21 purposes of the organization as stated in the bylaws or articles
22 of incorporation of the exempt organization.

23 (aa) The use or consumption of services described in
24 section 3a(a) or (c) or 3b by means of a prepaid telephone call-
25 ing card, a prepaid authorization number for telephone use, or a
26 charge for internet access.

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20

1 (bb) The purchase, lease, use, or consumption of the
2 following by an industrial laundry after December 31, 1997:

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

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

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

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

15 (v) Production washroom equipment and mending and packaging
16 supplies and equipment.

17 (vi) Material handling equipment including, but not limited
18 to, conveyors, racks, and elevators and related control
19 equipment.

20 (vii) Wastewater pretreatment equipment and supplies and
21 related maintenance and repair services.

22 (2) The property or services under subsection (1) are exempt
23 only to the extent that the property or services are used for the
24 exempt purposes if one is stated in subsection (1). The exemp-
25 tion is limited to the percentage of exempt use to total use
26 determined by a reasonable formula or method approved by the
27 department.

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1 Sec. 4k. (1) The tax levied under this act does not apply
2 to parts and materials, excluding shop equipment or fuel, affixed
3 to or to be affixed to an aircraft owned or used by a domestic
4 air carrier that is any of the following:

5 (a) An aircraft for use solely in the transport of air cargo
6 or a combination of air cargo and passengers that has a maximum
7 certificated takeoff weight of at least 12,500 pounds for taxes
8 levied before January 1, 1997 and at least 6,000 pounds for taxes
9 levied after December 31, 1996.

10 (b) An aircraft that is used solely in the regularly sched-
11 uled transport of passengers.

12 (c) An aircraft other than an aircraft described in subdivi-
13 sion (b), that has a maximum certificated takeoff weight of at
14 least 12,500 pounds for taxes levied before January 1, 1997 and
15 at least 6,000 pounds for taxes levied after December 31, 1996,
16 and that is designed to have a maximum passenger seating configu-
17 ration of more than 30 seats and is used solely in the transport
18 of passengers.

19 (2) For taxes levied after December 31, 1992, the tax levied
20 under this act does not apply to the storage, use, or consumption
21 of rolling stock used in interstate commerce and purchased,
22 rented, or leased by an interstate FLEET motor carrier. A refund
23 for taxes paid before January 1, 1997 shall not be paid under
24 this subsection if the refund claim is made after June 30, 1997.

25 (3) For taxes levied after December 31, 1996 and before
26 May 1, 1999, the tax levied under this act does not apply to the
27 product of the out-of-state usage percentage and the price

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1 otherwise taxable under this act of a qualified truck or a
2 trailer designed to be drawn behind a qualified truck, purchased,
3 rented, or leased in this state by an interstate FLEET motor car-
4 rier and used in interstate commerce.

5 (4) As used in this section:

6 (a) "Domestic air carrier" means a person engaged primarily
7 in the commercial transport for hire of air cargo, passengers, or
8 a combination of air cargo and passengers as a business
9 activity.

10 (b) "Interstate FLEET motor carrier" means a person engaged
11 in the business of carrying persons or property, other than them-
12 selves, their employees, or their own property, for hire across
13 state lines, whose fleet mileage was driven at least 10% outside
14 of this state in the immediately preceding tax year.

15 (c) "Out-of-state usage percentage" is a fraction, the
16 numerator of which is the number of miles driven outside of this
17 state in the immediately preceding tax year by qualified trucks
18 used by the taxpayer and the denominator of which is the total
19 miles driven in the immediately preceding tax year by qualified
20 trucks used by the taxpayer. Miles driven by qualified trucks
21 used solely in intrastate commerce shall not be included in cal-
22 culating the out-of-state usage percentage.

23 (d) "Qualified truck" means a commercial motor vehicle power
24 unit that has 2 axles and a gross vehicle weight rating in excess
25 of 10,000 pounds or a commercial motor vehicle power unit that
26 has 3 or more axles.

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1 (e) "Rolling stock" means a qualified truck, a trailer
2 designed to be drawn behind a qualified truck, and parts affixed
3 to either a qualified truck or a trailer designed to be drawn
4 behind a qualified truck.

5 Enacting section 1. This amendatory act does not take
6 effect unless all of the following bills of the 91st Legislature
7 are enacted into law:

8 (a) House Bill No. 5734.

9 (b) House Bill No. 5735.