

HOUSE BILL No. 5106

August 24, 2005, Introduced by Rep. Condino and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 4a, 4d, and 4s (MCL 205.54a, 205.54d, and
205.54s), sections 4a and 4s as amended and section 4d as added by
2004 PA 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) Subject to subsection (2), the following are
2 exempt from the tax under this act:

3 (a) A sale of tangible personal property not for resale to a
4 nonprofit school, nonprofit hospital, or nonprofit home for the
5 care and maintenance of children or aged persons operated by an
6 entity of government, a regularly organized church, religious —
7 or fraternal organization, a veterans' organization, or a
8 corporation incorporated under the laws of this state, if the

1 income or benefit from the operation does not inure, in whole or in
2 part, to an individual or private shareholder, directly or
3 indirectly, and if the activities of the entity or agency are
4 carried on exclusively for the benefit of the public at large and
5 are not limited to the advantage, interests, and benefits of its
6 members or any restricted group. A sale of tangible personal
7 property to a parent cooperative preschool is exempt from taxation
8 under this act. As used in this subdivision, "parent cooperative
9 preschool" means a nonprofit, nondiscriminatory educational
10 institution, maintained as a community service and administered by
11 parents of children currently enrolled in the preschool, that
12 provides an educational and developmental program for children
13 younger than compulsory school age, that provides an educational
14 program for parents, including active participation with children
15 in preschool activities, that is directed by qualified preschool
16 personnel, and that is licensed ~~by the department of consumer and~~
17 ~~industry services~~ pursuant to 1973 PA 116, MCL 722.111 to 722.128.

18 (b) A sale of tangible personal property not for resale to a
19 regularly organized church or house of religious worship, except
20 the following:

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

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

26 (c) The sale of food to bona fide enrolled students by a
27 school or other educational institution not operated for profit.

1 (d) The sale of a vessel designated for commercial use of
2 registered tonnage of 500 tons or more, if produced upon special
3 order of the purchaser, and bunker and galley fuel, provisions,
4 supplies, maintenance, and repairs for the exclusive use of the
5 vessel engaged in interstate commerce.

6 (e) A sale of tangible personal property to persons engaged in
7 a business enterprise and using or consuming the tangible personal
8 property in the tilling, planting, caring for, or harvesting of the
9 things of the soil; in the breeding, raising, or caring for
10 livestock, poultry, or horticultural products, including transfers
11 of livestock, poultry, or horticultural products for further
12 growth; or in the direct gathering of fish, by net, line, or
13 otherwise only by an owner-operator of the business enterprise, not
14 including a charter fishing business enterprise. This exemption
15 includes agricultural land tile, which means fired clay or
16 perforated plastic tubing used as part of a subsurface drainage
17 system for land, and subsurface irrigation pipe, if the land tile
18 or irrigation pipe is used in the production of agricultural
19 products as a business enterprise. This exemption includes a
20 portable grain bin, which means a structure that is used or is to
21 be used to shelter grain and that is designed to be disassembled
22 without significant damage to its component parts. This exemption
23 also includes grain drying equipment and natural or propane gas
24 used to fuel that equipment for agricultural purposes. This
25 exemption does not include transfers of food, fuel, clothing, or
26 any similar tangible personal property for personal living or human
27 consumption. This exemption does not include tangible personal

1 property permanently affixed and becoming a structural part of real
2 estate.

3 (f) The sale of a copyrighted motion picture film or a
4 newspaper or periodical admitted under federal postal laws and
5 regulations effective September 1, 1985 as second-class mail matter
6 or as a controlled circulation publication or qualified to accept
7 legal notices for publication in this state, as defined by law, or
8 any other newspaper or periodical of general circulation,
9 established not less than 2 years, and published not less than once
10 a week. Tangible personal property used or consumed in producing a
11 copyrighted motion picture film, a newspaper published more than 14
12 times per year, or a periodical published more than 14 times per
13 year, and not becoming a component part of that film, newspaper, or
14 periodical is subject to the tax. Tangible personal property used
15 or consumed in producing a newspaper published 14 times or less per
16 year or a periodical published 14 times or less per year and that
17 portion or percentage of tangible personal property used or
18 consumed in producing an advertising supplement that becomes a
19 component part of a newspaper or periodical is exempt from the tax
20 under this subdivision. A claim for a refund for taxes paid before
21 January 1, 1999, under this subdivision shall be made before June
22 30, 1999. For purposes of this subdivision, tangible personal
23 property that becomes a component part of a newspaper or periodical
24 and consequently not subject to tax includes an advertising
25 supplement inserted into and circulated with a newspaper or
26 periodical that is otherwise exempt from tax under this
27 subdivision, if the advertising supplement is delivered directly to

1 the newspaper or periodical by a person other than the advertiser,
2 or the advertising supplement is printed by the newspaper or
3 periodical.

4 (g) A sale of tangible personal property to persons licensed
5 to operate commercial radio or television stations if the property
6 is used in the origination or integration of the various sources of
7 program material for commercial radio or television transmission.
8 This subdivision does not include a vehicle licensed and titled for
9 use on public highways or property used in the transmission to or
10 receiving from an artificial satellite.

11 (h) The sale of a prosthetic device, durable medical
12 equipment, or mobility enhancing equipment.

13 (i) The sale of a vehicle not for resale to a Michigan
14 nonprofit corporation organized exclusively to provide a community
15 with ambulance or fire department services.

16 (j) ~~A~~ **BEFORE OCTOBER 1, 2005, A** sale of tangible personal
17 property to inmates in a penal or correctional institution
18 purchased with scrip or its equivalent issued and redeemed by the
19 institution.

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

23 (l) A sale of tangible personal property installed as a
24 component part of a water pollution control facility for which a
25 tax exemption certificate is issued pursuant to part 37 of the
26 natural resources and environmental protection act, 1994 PA 451,
27 MCL 324.3701 to 324.3708, or an air pollution control facility for

1 which a tax exemption certificate is issued pursuant to part 59 of
2 the natural resources and environmental protection act, 1994 PA
3 451, MCL 324.5901 to 324.5908.

4 (m) The sale or lease of the following to an industrial
5 laundry after December 31, 1997:

6 (i) Textiles and disposable products including, but not limited
7 to, soap, paper, chemicals, tissues, deodorizers and dispensers,
8 and all related items such as packaging, supplies, hangers, name
9 tags, and identification tags.

10 (ii) Equipment, whether owned or leased, used to repair and
11 dispense textiles including, but not limited to, roll towel
12 cabinets, slings, hardware, lockers, mop handles and frames, and
13 carts.

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

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

18 (v) Production washroom equipment and mending and packaging
19 supplies and equipment.

20 (vi) Material handling equipment including, but not limited to,
21 conveyors, racks, and elevators and related control equipment.

22 (vii) Wastewater pretreatment equipment and supplies and
23 related maintenance and repair services.

24 (n) A sale of tangible personal property to a person holding a
25 direct payment permit under section 8 of the use tax act, 1937 PA
26 94, MCL 205.98.

27 (2) The tangible personal property under subsection (1) is

1 exempt only to the extent that that property is used for the exempt
2 purpose if one is stated in subsection (1). The exemption is
3 limited to the percentage of exempt use to total use determined by
4 a reasonable formula or method approved by the department.

5 Sec. 4d. The following are exempt from the tax under this act:

6 (a) The sale of tangible personal property to a person who is
7 a lessor licensed under the use tax act, 1937 PA 94, MCL 205.91 to
8 205.111, and whose rental receipts are taxed or specifically exempt
9 under the use tax act, **1937 PA 94, MCL 205.91 TO 205.111.**

10 (b) ~~The~~ **BEFORE OCTOBER 1, 2005, THE** sale of a vehicle
11 acquired for lending or leasing to a public or parochial school for
12 use in a course in driver education.

13 (c) ~~The~~ **BEFORE OCTOBER 1, 2005, THE** sale of a vehicle
14 purchased by a public or parochial school if that vehicle is
15 certified for driver education and is not reassigned for personal
16 use by the school's administrative personnel.

17 (d) The sale of water through water mains, the sale of water
18 delivered in bulk tanks in quantities of not less than 500 gallons,
19 or the sale of bottled water.

20 (e) The sale of tangible personal property to a person for
21 demonstration purposes. For a dealer selling a new car or truck,
22 the exemption for demonstration purposes shall be determined by the
23 number of new cars and trucks sold during the current calendar year
24 or the immediately preceding year without regard to specific make
25 or style in accordance with the following schedule of 0 to 25, 2
26 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25
27 units; but not to exceed 25 cars and trucks in a calendar year for

1 demonstration purposes.

2 (f) Specific charges for technical support or for adapting or
3 modifying prewritten computer software programs to a purchaser's
4 needs or equipment if those charges are separately stated and
5 identified.

6 (g) The sale of computer software originally designed for the
7 exclusive use and special needs of the purchaser.

8 (h) The sale of a commercial advertising element if the
9 commercial advertising element is used to create or develop a
10 print, radio, television, or other advertisement, the commercial
11 advertising element is discarded or returned to the provider after
12 the advertising message is completed, and the commercial
13 advertising element is custom developed by the provider for the
14 purchaser. As used in this subdivision, "commercial advertising
15 element" means a negative or positive photographic image, an
16 audiotape or videotape master, a layout, a manuscript, writing of
17 copy, a design, artwork, an illustration, retouching, and
18 mechanical or keyline instructions. This exemption does not include
19 black and white or full color process separation elements, an
20 audiotape reproduction, or a videotape reproduction.

21 (i) A sale made outside of the ordinary course of the seller's
22 business.

23 (j) An isolated transaction by a person not licensed or
24 required to be licensed under this act, in which tangible personal
25 property is offered for sale, sold, or transferred and delivered by
26 the owner.

27 (k) The sale of oxygen for human use dispensed pursuant to a

1 prescription.

2 (l) The sale of insulin for human use.

3 Sec. 4s. (1) ~~—A~~ **BEFORE OCTOBER 1, 2005, A** sale of investment
4 coins and bullion is exempt from the tax under this act.

5 (2) As used in this section:

6 (a) "Bullion" means gold, silver, or platinum in a bulk state,
7 where its value depends on its content rather than its form, with a
8 purity of not less than 900 parts per 1,000.

9 (b) "Investment coins" means numismatic coins or other forms
10 of money and legal tender manufactured of gold, silver, platinum,
11 palladium, or other metal and issued by the United States
12 government or a foreign government with a fair market value greater
13 than the face value of the coins.