

SUBSTITUTE FOR  
HOUSE BILL NO. 5254

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending sections 3a, 4, 4a, 4d, 4k, and 9a (MCL 205.93a,  
205.94, 205.94a, 205.94d, 205.94k, and 205.99a), sections 3a, 4,  
4a, 4d, and 9a as amended by 2004 PA 172 and section 4k as amended  
by 2006 PA 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3a. (1) The use or consumption of the following is taxed  
2       under this act in the same manner as tangible personal property is  
3       taxed under this act:

4       (a) Except as provided in section 3b, intrastate telephone,  
5       telegraph, leased wire, and other similar communications, including

1 local telephone exchange and long distance telephone service that  
2 both originates and terminates in Michigan, and telegraph, private  
3 line, and teletypewriter service between places in Michigan, but  
4 **BEFORE OCTOBER 1, 2007** excluding telephone service by coin-operated  
5 installations, switchboards, concentrator-identifiers, interoffice  
6 circuitry and their accessories for telephone answering service,  
7 and directory advertising proceeds.

8 (b) Rooms or lodging furnished by hotelkeepers, motel  
9 operators, and other persons furnishing accommodations that are  
10 available to the public on the basis of a commercial and business  
11 enterprise, irrespective of whether or not membership is required  
12 for use of the accommodations, except rooms and lodging rented for  
13 a continuous period of more than 1 month. As used in this act,  
14 "hotel" or "motel" means a building or group of buildings in which  
15 the public may obtain accommodations for a consideration,  
16 including, without limitation, such establishments as inns, motels,  
17 tourist homes, tourist houses or courts, lodging houses, rooming  
18 houses, nudist camps, apartment hotels, resort lodges and cabins,  
19 camps operated by other than nonprofit organizations but not  
20 including those licensed under 1973 PA 116, MCL 722.111 to 722.128,  
21 and any other building or group of buildings in which  
22 accommodations are available to the public, except accommodations  
23 rented for a continuous period of more than 1 month and  
24 accommodations furnished by hospitals or nursing homes.

25 (c) Except as provided in section 3b, interstate telephone  
26 communications that either originate or terminate in this state and  
27 for which the charge for the service is billed to a Michigan

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1 service address or phone number by the provider either within or  
2 outside this state, including calls between this state and any  
3 place within or without the United States of America outside of  
4 this state. ~~However, if the tax under this act is levied at a rate~~  
5 ~~of 6% THIS SUBDIVISION DOES NOT APPLY TO AN 800 PREFIX SERVICE OR~~  
6 ~~SIMILAR TYPE SERVICE. BEFORE [OCTOBER] 1, 2007, this subdivision does~~  
7 ~~not apply to a wide area telecommunication service or a similar~~  
8 ~~type service, an 800 prefix service or similar type service, an~~  
9 ~~interstate private network and related usage charges, or an~~  
10 ~~international call either inbound or outbound. BEGINNING [OCTOBER] 1,~~  
11 ~~2007, A WIDE AREA TELECOMMUNICATION SERVICE OR A SIMILAR TYPE~~  
12 ~~SERVICE, AN INTERSTATE PRIVATE NETWORK AND RELATED USAGE CHARGES,~~  
13 ~~OR AN INTERNATIONAL CALL EITHER INBOUND OR OUTBOUND IS TAXED UNDER~~  
14 ~~THIS ACT IN THE SAME MANNER AS INTERSTATE TELEPHONE COMMUNICATIONS.~~

15 (d) The laundering or cleaning of textiles under a sale,  
16 rental, or service agreement with a term of at least 5 days. This  
17 subdivision does not apply to the laundering or cleaning of  
18 textiles used by a restaurant or retail sales business. As used in  
19 this subdivision, "restaurant" means a food service establishment  
20 defined and licensed under the food law of 2000, 2000 PA 92, MCL  
21 289.1101 to 289.8111.

22 (e) The transmission and distribution of electricity, whether  
23 the electricity is purchased from the delivering utility or from  
24 another provider, if the sale is made to the consumer or user of  
25 the electricity for consumption or use rather than for resale.

26 (f) For a manufacturer who affixes its product to real estate  
27 and maintains an inventory of its product that is available for

1 sale to others by publication or price list, the direct production  
2 costs and indirect production costs of the product affixed to the  
3 real estate that are incident to and necessary for production or  
4 manufacturing operations or processes, as defined by the  
5 department.

6 (g) For a manufacturer who affixes its product to real estate  
7 but does not maintain an inventory of its product available for  
8 sale to others or make its product available for sale to others by  
9 publication or price list, the sum of the materials cost of the  
10 property and the cost of labor to manufacture, fabricate, or  
11 assemble the property, but ~~does not include~~ the cost of labor to  
12 cut, bend, assemble, or attach the property at the site for  
13 affixation to real estate.

14 (2) If charges for intrastate telecommunications services or  
15 telecommunications services between this state and another state  
16 and other billed services not subject to the tax under this act are  
17 aggregated with and not separately stated from charges for  
18 telecommunications services that are subject to the tax under this  
19 act, the nontaxable telecommunications services and other  
20 nontaxable billed services are subject to the tax under this act  
21 unless the service provider can reasonably identify charges for  
22 telecommunications services not subject to the tax under this act  
23 from its books and records that are kept in the regular course of  
24 business.

25 (3) If charges for intrastate telecommunications services or  
26 telecommunications services between this state and another state  
27 and other billed services not subject to the tax under this act are

1 aggregated with and not separately stated from telecommunications  
2 services that are subject to the tax under this act, a customer may  
3 not rely upon the nontaxability of those telecommunications  
4 services and other billed services unless the customer's service  
5 provider separately states the charges for nontaxable  
6 telecommunications services and other nontaxable billed services  
7 from taxable telecommunications services or the service provider  
8 elects, after receiving a written request from the customer in the  
9 form required by the provider, to provide verifiable data based  
10 upon the service provider's books and records that are kept in the  
11 regular course of business that reasonably identify the nontaxable  
12 services.

13 (4) As used in this section:

14 (a) "Fabricate" means to modify or prepare tangible personal  
15 property for affixation or assembly.

16 (b) "Manufacture" means to convert or condition tangible  
17 personal property by changing the form, composition, quality,  
18 combination, or character of the property.

19 (c) "Manufacturer" means a person who manufactures,  
20 fabricates, or assembles tangible personal property.

21 Sec. 4. (1) The following are exempt from the tax levied under  
22 this act, subject to subsection (2):

23 (a) Property sold in this state on which transaction a tax is  
24 paid under the general sales tax act, 1933 PA 167, MCL 205.51 to  
25 205.78, if the tax was due and paid on the retail sale to a  
26 consumer.

27 (b) Property, the storage, use, or other consumption of which

1 this state is prohibited from taxing under the constitution or laws  
2 of the United States, or under the constitution of this state.

3 (c) Property purchased for resale, demonstration purposes, or  
4 lending or leasing to a public or parochial school offering a  
5 course in automobile driving except that a vehicle purchased by the  
6 school shall be certified for driving education and shall not be  
7 reassigned for personal use by the school's administrative  
8 personnel. For a dealer selling a new car or truck, exemption for  
9 demonstration purposes shall be determined by the number of new  
10 cars and trucks sold during the current calendar year or the  
11 immediately preceding year without regard to specific make or style  
12 according to the following schedule of 0 to 25, 2 units; 26 to 100,  
13 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to  
14 exceed 25 cars and trucks in 1 calendar year for demonstration  
15 purposes. Property purchased for resale includes promotional  
16 merchandise transferred pursuant to a redemption offer to a person  
17 located outside this state or any packaging material, other than  
18 promotional merchandise, acquired for use in fulfilling a  
19 redemption offer or rebate to a person located outside this state.

20 (d) Property that is brought into this state by a nonresident  
21 person for storage, use, or consumption while temporarily within  
22 this state, except if the property is used in this state in a  
23 nontransitory business activity for a period exceeding 15 days.

24 (e) Property the sale or use of which was already subjected to  
25 a sales tax or use tax equal to, or in excess of, that imposed by  
26 this act under the law of any other state or a local governmental  
27 unit within a state if the tax was due and paid on the retail sale

1 to the consumer and the state or local governmental unit within a  
2 state in which the tax was imposed accords like or complete  
3 exemption on property the sale or use of which was subjected to the  
4 sales or use tax of this state. If the sale or use of property was  
5 already subjected to a tax under the law of any other state or  
6 local governmental unit within a state in an amount less than the  
7 tax imposed by this act, this act shall apply, but at a rate  
8 measured by the difference between the rate provided in this act  
9 and the rate by which the previous tax was computed.

10 (f) Property sold to a person engaged in a business enterprise  
11 and using and consuming the property in the tilling, planting,  
12 caring for, or harvesting of the things of the soil or in the  
13 breeding, raising, or caring for livestock, poultry, or  
14 horticultural products, including transfers of livestock, poultry,  
15 or horticultural products for further growth. This exemption  
16 includes agricultural land tile, which means fired clay or  
17 perforated plastic tubing used as part of a subsurface drainage  
18 system for land used in the production of agricultural products as  
19 a business enterprise and includes a portable grain bin, which  
20 means a structure that is used or is to be used to shelter grain  
21 and that is designed to be disassembled without significant damage  
22 to its component parts. This exemption does not include transfers  
23 of food, fuel, clothing, or similar tangible personal property for  
24 personal living or human consumption. This exemption does not  
25 include tangible personal property permanently affixed to and  
26 becoming a structural part of real estate.

27 (g) Property or services sold to the United States, an

1 unincorporated agency or instrumentality of the United States, an  
2 incorporated agency or instrumentality of the United States wholly  
3 owned by the United States or by a corporation wholly owned by the  
4 United States, the American red cross and its chapters or branches,  
5 this state, a department or institution of this state, or a  
6 political subdivision of this state.

7 (h) Property or services sold to a school, hospital, or home  
8 for the care and maintenance of children or aged persons, operated  
9 by an entity of government, a regularly organized church, religious  
10 ~~—~~or fraternal organization, a veterans' organization, or a  
11 corporation incorporated under the laws of this state, if not  
12 operated for profit, and if the income or benefit from the  
13 operation does not inure, in whole or in part, to an individual or  
14 private shareholder, directly or indirectly, and if the activities  
15 of the entity or agency are carried on exclusively for the benefit  
16 of the public at large and are not limited to the advantage,  
17 interests, and benefits of its members or a restricted group. The  
18 tax levied does not apply to property or services sold to a parent  
19 cooperative preschool. As used in this subdivision, "parent  
20 cooperative preschool" means a nonprofit, nondiscriminatory  
21 educational institution, maintained as a community service and  
22 administered by parents of children currently enrolled in the  
23 preschool that provides an educational and developmental program  
24 for children younger than compulsory school age, that provides an  
25 educational program for parents, including active participation  
26 with children in preschool activities, that is directed by  
27 qualified preschool personnel, and that is licensed ~~by the~~



1 ~~department of consumer and industry services~~ pursuant to 1973 PA  
2 116, MCL 722.111 to 722.128.

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

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

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

11 (j) A vessel designed for commercial use of registered tonnage  
12 of 500 tons or more, if produced upon special order of the  
13 purchaser, and bunker and galley fuel, provisions, supplies,  
14 maintenance, and repairs for the exclusive use of a vessel of 500  
15 tons or more engaged in interstate commerce.

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

20 (l) A newspaper ~~or periodical~~ classified under federal postal  
21 laws and regulations effective September 1, 1985 as second-class  
22 mail matter or as a controlled circulation publication or qualified  
23 to accept legal notices for publication in this state, as defined  
24 by law, or any other newspaper or periodical of general  
25 circulation, established at least 2 years, and published at least  
26 once a week, and a copyrighted motion picture film **OR, BEFORE**  
27 **OCTOBER 1, 2007, A PERIODICAL CLASSIFIED UNDER FEDERAL POSTAL LAWS**

**1 AND REGULATIONS EFFECTIVE SEPTEMBER 1, 1985 AS SECOND-CLASS MAIL**

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

23 (m) Property purchased by persons licensed to operate a  
24 commercial radio or television station if the property is used in  
25 the origination or integration of the various sources of program  
26 material for commercial radio or television transmission. This  
27 subdivision does not include a vehicle licensed and titled for use

1 on public highways or property used in the transmitting to or  
2 receiving from an artificial satellite.

3 (n) A person who is a resident of this state who purchases an  
4 automobile in another state while in the military service of the  
5 United States and who pays a sales tax in the state where the  
6 automobile is purchased.

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

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

12 (q) Water when delivered through water mains, water sold in  
13 bulk tanks in quantities of not less than 500 gallons, or the sale  
14 of bottled water.

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

18 (s) ~~Tangible~~ **BEFORE OCTOBER 1, 2007, TANGIBLE** personal  
19 property purchased and installed as a component part of a water  
20 pollution control facility for which a tax exemption certificate is  
21 issued pursuant to part 37 of the natural resources and  
22 environmental protection act, 1994 PA 451, MCL 324.3701 to  
23 324.3708, or an air pollution control facility for which a tax  
24 exemption certificate is issued pursuant to part 59 of the natural  
25 resources and environmental protection act, 1994 PA 451, MCL  
26 324.5901 to 324.5908.

27 (t) Tangible real or personal property donated by a

1 manufacturer, wholesaler, or retailer to an organization or entity  
2 exempt pursuant to subdivision (h) or (i) or section ~~4a(a)~~**4A(1) (A)**  
3 or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

4 (u) The storage, use, or consumption of an aircraft by a  
5 domestic air carrier for use solely in the transport of air cargo,  
6 passengers, or a combination of air cargo and passengers, that has  
7 a maximum certificated takeoff weight of at least 6,000 pounds. For  
8 purposes of this subdivision, the term "domestic air carrier" is  
9 limited to a person engaged primarily in the commercial transport  
10 for hire of air cargo, passengers, or a combination of air cargo  
11 and passengers as a business activity. The state treasurer shall  
12 estimate on January 1 each year the revenue lost by this act from  
13 the school aid fund and deposit that amount into the school aid  
14 fund from the general fund.

15 (v) The storage, use, or consumption of an aircraft by a  
16 person who purchases the aircraft for subsequent lease to a  
17 domestic air carrier operating under a certificate issued by the  
18 federal aviation administration under 14 CFR part 121, for use  
19 solely in the regularly scheduled transport of passengers.

20 (w) Property or services sold to an organization not operated  
21 for profit and exempt from federal income tax under section  
22 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501; or  
23 to a health, welfare, educational, cultural arts, charitable, or  
24 benevolent organization not operated for profit that has been  
25 issued before June 13, 1994 an exemption ruling letter to purchase  
26 items exempt from tax signed by the administrator of the sales,  
27 use, and withholding taxes division of the department. The

1 department shall reissue an exemption letter after June 13, 1994 to  
2 each of those organizations that had an exemption letter that shall  
3 remain in effect unless the organization fails to meet the  
4 requirements that originally entitled it to this exemption. The  
5 exemption does not apply to sales of tangible personal property and  
6 sales of vehicles licensed for use on public highways, that are not  
7 used primarily to carry out the purposes of the organization as  
8 stated in the bylaws or articles of incorporation of the exempt  
9 organization.

10 (x) The use or consumption of services described in section  
11 ~~3a(a)~~**3A(1)(A)** or (c) or 3b by means of a prepaid telephone calling  
12 card, a prepaid authorization number for telephone use, or a charge  
13 for internet access.

14 (y) The purchase, lease, use, or consumption of the following  
15 by an industrial laundry after December 31, 1997:

16 (i) Textiles and disposable products including, but not limited  
17 to, soap, paper, chemicals, tissues, deodorizers and dispensers,  
18 and all related items such as packaging, supplies, hangers, name  
19 tags, and identification tags.

20 (ii) Equipment, whether owned or leased, used to repair and  
21 dispense textiles including, but not limited to, roll towel  
22 cabinets, slings, hardware, lockers, mop handles and frames, and  
23 carts.

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

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

1 (v) Production washroom equipment and mending and packaging  
2 supplies and equipment.

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

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

7 (2) The property or services under subsection (1) are exempt  
8 only to the extent that the property or services are used for the  
9 exempt purposes if one is stated in subsection (1). The exemption  
10 is limited to the percentage of exempt use to total use determined  
11 by a reasonable formula or method approved by the department.

12 Sec. 4a. The following are exempt from the tax under this act:

13 (a) Rental receipts if the tangible personal property rented  
14 or leased was previously subject to 1 of the following when  
15 purchased by the lessor:

16 (i) This act.

17 (ii) The general sales tax act, 1933 PA 167, MCL 205.51 to  
18 205.78.

19 (b) Rental receipts if the tangible personal property rented  
20 or leased was previously taxed under a sales or use tax act of  
21 another state or a political subdivision of another state levied at  
22 a rate of 6% or more.

23 (c) Specific charges for technical support or for adapting or  
24 modifying prewritten computer software programs to a purchaser's  
25 needs or equipment if those charges are separately stated and  
26 identified.

27 (d) The sale of computer software originally designed for the

1 exclusive use and special needs of the purchaser.

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

15 (f) The sale of oxygen for human use dispensed pursuant to a  
16 prescription.

17 (g) The sale of insulin for human use.

18 (h) ~~A-BEFORE OCTOBER 1, 2007, A~~ meal provided free of charge  
19 or at a reduced rate to an employee during work hours by a food  
20 service establishment licensed ~~by the department of agriculture~~  
21 **UNDER THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1101 TO 289.8111.**

22 (i) The sale of diesel fuel to a person who is an interstate  
23 motor carrier for use in a qualified commercial motor vehicle.

24 Sec. 4d. (1) The following are exempt from the tax under this  
25 act:

26 (a) Sales of drugs for human use that can only be legally  
27 dispensed by prescription or food or food ingredients, except

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1 prepared food intended for immediate human consumption **AND, AFTER**

2 **[OCTOBER] 1, 2007, FOOD AND FOOD INGREDIENTS SOLD FROM A VENDING**

3 **MACHINE.**

4 (b) The deposit on a returnable container for a beverage or  
5 the deposit on a carton or case that is used for returnable  
6 containers.

7 (c) Food or tangible personal property purchased under the  
8 federal food stamp program or meals eligible to be purchased under  
9 the federal food stamp program.

10 (d) Fruit or vegetable seeds and fruit or vegetable plants if  
11 purchased at a place of business authorized to accept food stamps  
12 by the food and nutrition service of the United States department  
13 of agriculture or a place of business that has made a complete and  
14 proper application for authorization to accept food stamps but has  
15 been denied authorization and provides proof of denial to the  
16 department of treasury.

17 (e) Live animals purchased with the intent to be slaughtered  
18 for human consumption.

19 (2) ~~Food~~ **BEFORE OCTOBER 1, 2007, FOOD** or drink heated or  
20 cooled mechanically, electrically, or by other artificial means to  
21 an average temperature above 75 degrees Fahrenheit or below 65  
22 degrees Fahrenheit before sale and sold from a vending machine,  
23 except milk, nonalcoholic beverages in a sealed container, and  
24 fresh fruit, is subject to the tax under this act. The tax due  
25 under this act on the sale of food or drink from a vending machine  
26 selling both taxable items and items exempt under this subsection  
27 shall be calculated under this act after December 31, 1994 based on



1 1 of the following as determined by the taxpayer:

2 (a) Actual gross proceeds from sales at retail.

3 (b) Forty-five percent of proceeds from the sale of items  
4 subject to tax under this act or exempt from the tax levied under  
5 this act, other than from the sale of carbonated beverages.

6 (3) "Food and food ingredients" means substances, whether in  
7 liquid, concentrated, solid, frozen, dried, or dehydrated form,  
8 that are sold for ingestion or chewing by humans and are consumed  
9 for their taste or nutritional value. Food and food ingredients do  
10 not include alcoholic beverages and tobacco.

11 (4) "Prepared food" means the following:

12 (a) Food sold in a heated state or that is heated by the  
13 seller.

14 (b) Two or more food ingredients mixed or combined by the  
15 seller for sale as a single item.

16 (c) Food sold with eating utensils provided by the seller,  
17 including knives, forks, spoons, glasses, cups, napkins, straws, or  
18 plates, but not including a container or packaging used to  
19 transport the food.

20 (5) Prepared food does not include the following:

21 (a) Food that is only cut, repackaged, or pasteurized by the  
22 seller.

23 (b) Raw eggs, fish, meat, poultry, and foods containing those  
24 raw items requiring cooking by the consumer in recommendations  
25 contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001  
26 food code published by the food and drug administration of the  
27 public health service of the department of health and human

1 services, to prevent foodborne illness.

2 (c) Food sold in an unheated state by weight or volume as a  
3 single item, without eating utensils.

4 (d) Bakery items, including bread, rolls, buns, biscuits,  
5 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,  
6 pies, tarts, muffins, bars, cookies, and tortillas, sold without  
7 eating utensils.

8 (6) "Prepared food intended for immediate **HUMAN** consumption"  
9 means prepared food **AND, AFTER OCTOBER 1, 2007, FOOD AND FOOD**  
10 **INGREDIENTS SOLD FROM A VENDING MACHINE.**

11 Sec. 4k. (1) ~~The~~**BEFORE OCTOBER 1, 2007, THE** tax levied under  
12 this act does not apply to parts and materials, excluding shop  
13 equipment or fuel, affixed to or to be affixed to an aircraft owned  
14 or used by a domestic air carrier that is any of the following:

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

20 (b) An aircraft that is used solely in the regularly scheduled  
21 transport of passengers.

22 (c) An aircraft other than an aircraft described in  
23 subdivision (b), that has a maximum certificated takeoff weight of  
24 at least 12,500 pounds for taxes levied before January 1, 1997 and  
25 at least 6,000 pounds for taxes levied after December 31, 1996, and  
26 that is designed to have a maximum passenger seating configuration  
27 of more than 30 seats and is used solely in the transport of

1 passengers.

2 (2) ~~The~~**BEFORE OCTOBER 1, 2007, THE** tax levied under this act  
3 does not apply to the sale of parts or materials, excluding shop  
4 equipment or fuel, affixed or to be affixed to an aircraft that  
5 meets all of the following conditions:

6 (a) The aircraft leaves this state within 15 days after the  
7 sooner of the issuance of the final billing or authorized approval  
8 for final return to service, completion of the maintenance record  
9 entry, and completion of the test flight and ground test for  
10 inspection as required under 14 CFR 91.407.

11 (b) The aircraft was not based in this state or registered in  
12 this state before the parts or materials are affixed to the  
13 aircraft and the aircraft is not based in this state or registered  
14 in this state after the parts or materials are affixed to the  
15 aircraft.

16 (3) The tax levied under this act does not apply to the sale  
17 of an aircraft temporarily located in this state for the purpose of  
18 prepurchase evaluation or the purpose of prepurchase evaluation and  
19 postsale customization if all of the following conditions are  
20 satisfied:

21 (a) The aircraft leaves this state within 15 days after  
22 authorized approval for final return to service, completion of the  
23 maintenance record entry, and completion of the test flight and  
24 ground test for inspection as required under 14 CFR 91.407.

25 (b) The aircraft was not based in this state or registered in  
26 this state before the prepurchase evaluation or prepurchase  
27 evaluation and postsale customization are completed and the

1 aircraft is not based in this state or registered in this state  
2 after the prepurchase evaluation or prepurchase evaluation and  
3 postsale customization are completed.

4 (4) For taxes levied after December 31, 1992, the tax levied  
5 under this act does not apply to the storage, use, or consumption  
6 of rolling stock used in interstate commerce and purchased, rented,  
7 or leased by an interstate fleet motor carrier. A refund for taxes  
8 paid before January 1, 1997 shall not be paid under this subsection  
9 if the refund claim is made after June 30, 1997.

10 (5) For taxes levied after December 31, 1996 and before May 1,  
11 1999, the tax levied under this act does not apply to the product  
12 of the out-of-state usage percentage and the price otherwise  
13 taxable under this act of a qualified truck or a trailer designed  
14 to be drawn behind a qualified truck, purchased, rented, or leased  
15 in this state by an interstate fleet motor carrier and used in  
16 interstate commerce.

17 (6) As used in this section:

18 (a) "Based in this state" means hangared or stored in this  
19 state for not less than 10 days in not less than 3 nonconsecutive  
20 months during the immediately preceding 12-month period.

21 (b) "Domestic air carrier" means a person engaged primarily in  
22 the commercial transport for hire of air cargo, passengers, or a  
23 combination of air cargo and passengers as a business activity.

24 (c) "Interstate fleet motor carrier" means a person engaged in  
25 the business of carrying persons or property, other than  
26 themselves, their employees, or their own property, for hire across  
27 state lines, whose fleet mileage was driven at least 10% outside of

1 this state in the immediately preceding tax year.

2 (d) "Out-of-state usage percentage" is a fraction, the  
3 numerator of which is the number of miles driven outside of this  
4 state in the immediately preceding tax year by qualified trucks  
5 used by the taxpayer and the denominator of which is the total  
6 miles driven in the immediately preceding tax year by qualified  
7 trucks used by the taxpayer. Miles driven by qualified trucks used  
8 solely in intrastate commerce shall not be included in calculating  
9 the out-of-state usage percentage.

10 (e) "Prepurchase evaluation" means an examination of an  
11 aircraft to provide a potential purchaser with information relevant  
12 to the potential purchase.

13 (f) "Postsale customization" means any improvement,  
14 maintenance, or repair that is performed on an aircraft following a  
15 transfer of ownership of the aircraft.

16 (g) "Qualified truck" means a commercial motor vehicle power  
17 unit that has 2 axles and a gross vehicle weight rating in excess  
18 of 10,000 pounds or a commercial motor vehicle power unit that has  
19 3 or more axles.

20 (h) "Registered in this state" means an aircraft registered  
21 with the state transportation department, bureau of aeronautics or  
22 registered with the federal aviation administration to an address  
23 located in this state.

24 (i) "Rolling stock" means a qualified truck, a trailer  
25 designed to be drawn behind a qualified truck, and parts affixed to  
26 either a qualified truck or a trailer designed to be drawn behind a  
27 qualified truck.

1       Sec. 9a. (1) In computing the amount of tax levied under this  
2 act for any month, **BEFORE OCTOBER 1, 2007**, a seller may deduct the  
3 amount of bad debts from his or her gross sales, rentals, or  
4 services used for the computation of the tax. The amount of gross  
5 sales, rentals, or services deducted must be charged off as  
6 uncollectible on the books and records of the seller at the time  
7 the debt becomes worthless and deducted on the return for the  
8 period during which the bad debt is written off as uncollectible in  
9 the claimant's books and records and must be eligible to be  
10 deducted for federal income tax purposes. For purposes of this  
11 section, **BEFORE OCTOBER 1, 2007**, a claimant who is not required to  
12 file a federal income tax return may deduct a bad debt on a return  
13 filed for the period in which the bad debt becomes worthless and is  
14 written off as uncollectible in the claimant's books and records  
15 and would be eligible for a bad debt deduction for federal income  
16 tax purposes if the claimant was required to file a federal income  
17 tax return. If a consumer or other person pays all or part of a bad  
18 debt with respect to which a seller claimed a deduction under this  
19 section, the seller is liable for the amount of taxes deducted in  
20 connection with that portion of the debt for which payment is  
21 received and shall remit these taxes in his or her next payment to  
22 the department. Any payments made on a bad debt shall be applied  
23 proportionally first to the taxable price of the property and the  
24 tax on the property and second to any interest, service, or other  
25 charge.

26       (2) Any claim for a bad debt deduction under this section  
27 shall be supported by that evidence required by the department. The

1 department shall review any change in the rate of taxation  
2 applicable to any taxable sales, rentals, or services by a seller  
3 claiming a deduction pursuant to this section and shall ensure that  
4 the deduction on any bad debt does not result in the seller  
5 claiming the deduction recovering any more or less than the taxes  
6 imposed on the sale, rental, or service that constitutes the bad  
7 debt.

8 (3) If a certified service provider assumed filing  
9 responsibility under the streamlined sales and use tax  
10 administration act, the certified service provider may, **BEFORE**  
11 **OCTOBER 1, 2007**, claim, on behalf of the seller, any bad debt  
12 allowable to the seller and shall credit or refund that amount of  
13 bad debt allowed or refunded to the seller.

14 (4) If the books and records of a seller under the streamlined  
15 sales and use tax act ~~act~~ **AGREEMENT UNDER THE STREAMLINED SALES AND USE**  
16 **TAX ACT, 2004 PA 174, MCL 205.801 TO 205.833**, that claims a bad  
17 debt allowance support an allocation of the bad debts among member  
18 states of that agreement, the seller may allocate the bad debts.

19 (5) As used in this section, "bad debt" means any portion of a  
20 debt resulting from a seller's collection of the use tax under this  
21 act on the purchase of tangible personal property or services that  
22 is not otherwise deductible or excludable and that is eligible to  
23 be claimed, or could be eligible to be claimed if the seller kept  
24 accounts on an accrual basis, as a deduction pursuant to section  
25 166 of the internal revenue code, 26 USC 166. A bad debt does not  
26 include any of the following:

27 (a) Interest, finance charge, or use tax on the purchase

1 price.

2 (b) Uncollectible amounts on property that remains in the  
3 possession of the seller until the full purchase price is paid.

4 (c) Expenses incurred in attempting to collect any account  
5 receivable or any portion of the debt recovered.

6 (d) Any accounts receivable that have been sold to and remain  
7 in the possession of a third party for collection.

8 (e) Repossessed property.