

# SENATE BILL No. 1120

February 19, 2008, Introduced by Senators GILBERT, JELINEK, BIRKHOLZ, BARCIA, ALLEN, VAN WOERKOM, CROSEY and HARDIMAN and referred to the Committee on Agriculture.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4 (MCL 205.94), as amended by 2007 PA 103.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3       (a) Property sold in this state on which transaction a tax is  
4 paid under the general sales tax act, 1933 PA 167, MCL 205.51 to  
5 205.78, if the tax was due and paid on the retail sale to a  
6 consumer.

7       (b) Property, the storage, use, or other consumption of which  
8 this state is prohibited from taxing under the constitution or laws  
9 of the United States, or under the constitution of this state.

1 (c) All of the following:

2 (i) Property purchased for resale. Property purchased for  
3 resale includes promotional merchandise transferred pursuant to a  
4 redemption offer to a person located outside this state or any  
5 packaging material, other than promotional merchandise, acquired  
6 for use in fulfilling a redemption offer or rebate to a person  
7 located outside this state.

8 (ii) Property purchased for lending or leasing to a public or  
9 parochial school offering a course in automobile driving except  
10 that a vehicle purchased by the school shall be certified for  
11 driving education and shall not be reassigned for personal use by  
12 the school's administrative personnel.

13 (iii) Property purchased for demonstration purposes. For a new  
14 vehicle dealer selling a new car or truck, exemption for  
15 demonstration purposes shall be determined by the number of new  
16 cars and trucks sold during the current calendar year or the  
17 immediately preceding calendar year, without regard to specific  
18 make or style, according to the following schedule but not to  
19 exceed 25 cars and trucks in 1 calendar year for demonstration  
20 purposes:

21 (A) 0 to 25, 2 units.

22 (B) 26 to 100, 7 units.

23 (C) 101 to 500, 20 units.

24 (D) 501 or more, 25 units.

25 (iv) Motor vehicles purchased for resale purposes by a new  
26 vehicle dealer licensed under section 248(8)(a) of the Michigan  
27 vehicle code, 1949 PA 300, MCL 257.248.

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

5 (e) Property the sale or use of which was already subjected to  
6 a sales tax or use tax equal to, or in excess of, that imposed by  
7 this act under the law of any other state or a local governmental  
8 unit within a state if the tax was due and paid on the retail sale  
9 to the consumer and the state or local governmental unit within a  
10 state in which the tax was imposed accords like or complete  
11 exemption on property the sale or use of which was subjected to the  
12 sales or use tax of this state. If the sale or use of property was  
13 already subjected to a tax under the law of any other state or  
14 local governmental unit within a state in an amount less than the  
15 tax imposed by this act, this act shall apply, but at a rate  
16 measured by the difference between the rate provided in this act  
17 and the rate by which the previous tax was computed.

18 (f) Property sold to a person engaged in a business enterprise  
19 and using and consuming the property in the tilling, planting,  
20 caring for, or harvesting of the things of the soil or in the  
21 breeding, raising, or caring for livestock, poultry, or  
22 horticultural products, including transfers of livestock, poultry,  
23 or horticultural products for further growth. **THIS EXEMPTION**  
24 **INCLUDES MACHINERY THAT IS CAPABLE OF SIMULTANEOUSLY HARVESTING**  
25 **GRAIN OR OTHER CROPS AND BIOMASS RESIDUE FROM GRAIN AND OTHER CROPS**  
26 **OR MACHINERY MANUFACTURED AFTER THE EFFECTIVE DATE OF THE**  
27 **AMENDATORY ACT THAT ADDED THIS SENTENCE FOR THE PURPOSE OF**

**1 HARVESTING AGRICULTURAL BIOMASS GROWN SOLELY AS AN ENERGY CROP.**

2 This exemption includes agricultural land tile, which means fired  
3 clay or perforated plastic tubing used as part of a subsurface  
4 drainage system for land used in the production of agricultural  
5 products as a business enterprise and includes a portable grain  
6 bin, which means a structure that is used or is to be used to  
7 shelter grain and that is designed to be disassembled without  
8 significant damage to its component parts. This exemption does not  
9 include transfers of food, fuel, clothing, or similar tangible  
10 personal property for personal living or human consumption. This  
11 exemption does not include tangible personal property permanently  
12 affixed to and becoming a structural part of real estate. **AS USED**  
13 **IN THIS SUBDIVISION, "BIOMASS" MEANS CROP RESIDUE USED TO PRODUCE**  
14 **ENERGY OR AGRICULTURAL CROPS GROWN SPECIFICALLY FOR THE PRODUCTION**  
15 **OF ALTERNATIVE ENERGY.**

16 (g) Property or services sold to the United States, an  
17 unincorporated agency or instrumentality of the United States, an  
18 incorporated agency or instrumentality of the United States wholly  
19 owned by the United States or by a corporation wholly owned by the  
20 United States, the American red cross and its chapters or branches,  
21 this state, a department or institution of this state, or a  
22 political subdivision of this state.

23 (h) Property or services sold to a school, hospital, or home  
24 for the care and maintenance of children or aged persons, operated  
25 by an entity of government, a regularly organized church,  
26 religious, or fraternal organization, a veterans' organization, or  
27 a corporation incorporated under the laws of this state, if not

1 operated for profit, and if the income or benefit from the  
2 operation does not inure, in whole or in part, to an individual or  
3 private shareholder, directly or indirectly, and if the activities  
4 of the entity or agency are carried on exclusively for the benefit  
5 of the public at large and are not limited to the advantage,  
6 interests, and benefits of its members or a restricted group. The  
7 tax levied does not apply to property or services sold to a parent  
8 cooperative preschool. As used in this subdivision, "parent  
9 cooperative preschool" means a nonprofit, nondiscriminatory  
10 educational institution, maintained as a community service and  
11 administered by parents of children currently enrolled in the  
12 preschool that provides an educational and developmental program  
13 for children younger than compulsory school age, that provides an  
14 educational program for parents, including active participation  
15 with children in preschool activities, that is directed by  
16 qualified preschool personnel, and that is licensed ~~by the~~  
17 ~~department of consumer and industry services~~ pursuant to 1973 PA  
18 116, MCL 722.111 to 722.128.

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

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

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

27 (j) A vessel designed for commercial use of registered tonnage

1 of 500 tons or more, if produced upon special order of the  
2 purchaser, and bunker and galley fuel, provisions, supplies,  
3 maintenance, and repairs for the exclusive use of a vessel of 500  
4 tons or more engaged in interstate commerce.

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

9 (l) A newspaper or periodical classified under federal postal  
10 laws and regulations effective September 1, 1985 as second-class  
11 mail matter or as a controlled circulation publication or qualified  
12 to accept legal notices for publication in this state, as defined  
13 by law, or any other newspaper or periodical of general  
14 circulation, established at least 2 years, and published at least  
15 once a week, and a copyrighted motion picture film. Tangible  
16 personal property used or consumed in producing a copyrighted  
17 motion picture film, a newspaper published more than 14 times per  
18 year, or a periodical published more than 14 times per year, and  
19 not becoming a component part of that film, newspaper, or  
20 periodical is subject to the tax. After December 31, 1993, tangible  
21 personal property used or consumed in producing a newspaper  
22 published 14 times or less per year or a periodical published 14  
23 times or less per year and that portion or percentage of tangible  
24 personal property used or consumed in producing an advertising  
25 supplement that becomes a component part of a newspaper or  
26 periodical is exempt from the tax under this subdivision. A claim  
27 for a refund for taxes paid before January 1, 1999 under this

1 subdivision shall be made before June 30, 1999. For purposes of  
2 this subdivision, tangible personal property that becomes a  
3 component part of a newspaper or periodical and consequently not  
4 subject to tax, includes an advertising supplement inserted into  
5 and circulated with a newspaper or periodical that is otherwise  
6 exempt from tax under this subdivision, if the advertising  
7 supplement is delivered directly to the newspaper or periodical by  
8 a person other than the advertiser, or the advertising supplement  
9 is printed by the newspaper or periodical.

10 (m) Property purchased by persons licensed to operate a  
11 commercial radio or television station if the property is used in  
12 the origination or integration of the various sources of program  
13 material for commercial radio or television transmission. This  
14 subdivision does not include a vehicle licensed and titled for use  
15 on public highways or property used in the transmitting to or  
16 receiving from an artificial satellite.

17 (n) A person who is a resident of this state who purchases an  
18 automobile in another state while in the military service of the  
19 United States and who pays a sales tax in the state where the  
20 automobile is purchased.

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

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

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

1 of bottled water.

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

5 (s) Tangible personal property purchased and installed as a  
6 component part of a water pollution control facility for which a  
7 tax exemption certificate is issued pursuant to part 37 of the  
8 natural resources and environmental protection act, 1994 PA 451,  
9 MCL 324.3701 to 324.3708, or an air pollution control facility for  
10 which a tax exemption certificate is issued pursuant to part 59 of  
11 the natural resources and environmental protection act, 1994 PA  
12 451, MCL 324.5901 to 324.5908.

13 (t) Tangible real or personal property donated by a  
14 manufacturer, wholesaler, or retailer to an organization or entity  
15 exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or  
16 (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

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



1 (v) 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 CFR part 121, for use  
5 solely in the regularly scheduled transport of passengers.

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

23 (x) The use or consumption of services described in section  
24 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card,  
25 a prepaid authorization number for telephone use, or a charge for  
26 internet access.

27 (y) The purchase, lease, use, or consumption of the following

1 by an industrial laundry after December 31, 1997:

2 (i) Textiles and disposable products including, but not limited  
3 to, soap, paper, chemicals, tissues, deodorizers and dispensers,  
4 and all related items such as packaging, supplies, hangers, name  
5 tags, and identification tags.

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

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

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

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

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

18 (vii) Wastewater pretreatment equipment and supplies and  
19 related maintenance and repair services.

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