

# HOUSE BILL No. 4586

April 5, 2007, Introduced by Rep. Gillard and referred to the Committee on Health Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending sections 4g and 25 (MCL 205.54g and 205.75), section 4g  
as amended by 2004 PA 173 and section 25 as amended by 2006 PA 69.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 4g. (1) The following are exempt from the tax under this  
2 act:

3           (a) Sales of drugs for human use that can only be legally  
4 dispensed by prescription or food or food ingredients, except  
5 prepared food intended for immediate human consumption.

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

9           (c) Food or tangible personal property purchased under the

1 federal food stamp program or meals eligible to be purchased under  
2 the federal food stamp program.

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

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

12 (2) Food or drink heated or cooled mechanically, electrically,  
13 or by other artificial means to an average temperature above 75  
14 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and  
15 sold from a vending machine, except milk, nonalcoholic beverages in  
16 a sealed container **THAT ARE NOT CARBONATED SOFT DRINKS**, and fresh  
17 fruit, is subject to the tax under this act. The tax due under this  
18 act on the sale of food or drink from a vending machine selling  
19 both taxable items and items exempt under this subsection shall be  
20 calculated under this act based on 1 of the following as determined  
21 by the taxpayer:

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

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

26 (3) "Food and food ingredients" means substances, whether in  
27 liquid, concentrated, solid, frozen, dried, or dehydrated form,

1 that are sold for ingestion or chewing by humans and are consumed  
2 for their taste or nutritional value. Food and food ingredients do  
3 not include alcoholic beverages, **CARBONATED SOFT DRINKS**, and  
4 tobacco.

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

6 (a) Food sold in a heated state or that is heated by the  
7 seller.

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

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

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

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

17 (b) Raw eggs, fish, meat, poultry, and foods containing those  
18 raw items requiring cooking by the consumer in recommendations  
19 contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001  
20 food code published by the food and drug administration of the  
21 public health service of the department of health and human  
22 services, to prevent foodborne illness.

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

25 (d) Bakery items, including bread, rolls, buns, biscuits,  
26 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,  
27 pies, tarts, muffins, bars, cookies, and tortillas, sold without

1 eating utensils.

2 (6) "Prepared food intended for immediate consumption" means  
3 prepared food.

4 Sec. 25. (1) All money received and collected under this act  
5 shall be deposited by the department in the state treasury to the  
6 credit of the general fund, except as otherwise provided in this  
7 section.

8 (2) Fifteen percent of the collections of the tax imposed at a  
9 rate of 4% shall be distributed to cities, villages, and townships  
10 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971  
11 PA 140, MCL 141.901 to 141.921.

12 (3) Sixty percent of the collections of the tax imposed at a  
13 rate of 4% shall be deposited in the state school aid fund  
14 established in section 11 of article IX of the state constitution  
15 of 1963 and distributed as provided by law. In addition, all of the  
16 collections of the tax imposed at the additional rate of 2%  
17 approved by the electors March 15, 1994 shall be deposited in the  
18 state school aid fund.

19 (4) For the fiscal year ending September 30, 1988 and each  
20 fiscal year ending after September 30, 1988, of the 25% of the  
21 collections of the general sales tax imposed at a rate of 4%  
22 directly or indirectly on fuels sold to propel motor vehicles upon  
23 highways, on the sale of motor vehicles and on the sale of the  
24 parts and accessories of motor vehicles by new and used car  
25 businesses, used car businesses, accessory dealer businesses, and  
26 gasoline station businesses as classified by the department of  
27 treasury remaining after the allocations and distributions are made

1 pursuant to subsections (2) and (3), the following amounts shall be  
2 deposited each year into the respective funds:

3 (a) For the fiscal year ending September 30, 2003 and for the  
4 fiscal year ending September 30, 2006 and each fiscal year ending  
5 after September 30, 2006, not less than 27.9% to the comprehensive  
6 transportation fund. For the fiscal year ending September 30, 2004  
7 through the fiscal year ending September 30, 2005, not less than  
8 24% to the comprehensive transportation fund. For the fiscal year  
9 ending September 30, 2006 only, the amount deposited to the  
10 comprehensive transportation fund under this subdivision shall be  
11 reduced by \$11,100,000.00.

12 (b) The balance to the state general fund.

13 (5) After the allocations and distributions are made pursuant  
14 to subsections (2) and (3), an amount equal to the collections of  
15 the tax imposed at a rate of 4% under this act from the sale at  
16 retail of computer software as defined in section 1a shall be  
17 deposited in the Michigan health initiative fund created in section  
18 5911 of the public health code, 1978 PA 368, MCL 333.5911, and  
19 shall be considered in addition to, and is not intended as a  
20 replacement for any other money appropriated to the department of  
21 community health. The funds deposited in the Michigan health  
22 initiative fund on an annual basis shall not be less than  
23 \$9,000,000.00 or more than \$12,000,000.00.

24 **(6) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008 AND EACH**  
25 **FISCAL YEAR THEREAFTER, AFTER THE ALLOCATIONS AND DISTRIBUTIONS ARE**  
26 **MADE PURSUANT TO SUBSECTIONS (2) THROUGH (5), AN AMOUNT EQUAL TO**  
27 **THE COLLECTIONS OF THE TAX IMPOSED AT A RATE OF 4% UNDER THIS ACT**

1 ON THE SALE OF CARBONATED SOFT DRINKS SHALL BE DEPOSITED INTO THE  
2 MICHIGAN CATASTROPHIC HEALTH CARE FUND.

3 (7) ~~(6)~~—The balance in the state general fund shall be  
4 disbursed only on an appropriation or appropriations by the  
5 legislature.