

# SENATE BILL No. 320

March 1, 2007, Introduced by Senators JACOBS, SCHAUER and THOMAS and referred to the Committee on Finance.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4d (MCL 205.94d), as amended by 2004 PA 172.

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

1           Sec. 4d. (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 **AND, AFTER**  
6 **JUNE 1, 2007, FOOD AND FOOD INGREDIENTS SOLD FROM A VENDING**  
7 **MACHINE.**

8           (b) The deposit on a returnable container for a beverage or

1 the deposit on a carton or case that is used for returnable  
2 containers.

3 (c) Food or tangible personal property purchased under the  
4 federal food stamp program or meals eligible to be purchased under  
5 the federal food stamp program.

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

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

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

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

26 (b) Forty-five percent of proceeds from the sale of items  
27 subject to tax under this act or exempt from the tax levied under

1 this act, other than from the sale of carbonated beverages.

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

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

8 (a) Food sold in a heated state or that is heated by the  
9 seller.

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

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

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

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

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

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

27 (d) Bakery items, including bread, rolls, buns, biscuits,

1 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,  
2 pies, tarts, muffins, bars, cookies, and tortillas, sold without  
3 eating utensils.

4 (6) "Prepared food intended for immediate **HUMAN** consumption"  
5 means prepared food **AND, AFTER JUNE 1, 2007, FOOD AND FOOD**  
6 **INGREDIENTS SOLD FROM A VENDING MACHINE.**