

SENATE BILL No. 228

February 17, 2009, Introduced by Senators SWITALSKI and CHERRY and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4g (MCL 205.54g), as amended by 2008 PA 438.

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
10 federal food stamp program or meals sold by a person exempt from

1 the tax under this act that are eligible to be purchased under the
2 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~~
16 ~~in a sealed container, and fresh fruit,~~ is subject to the tax under
17 this act. The tax due under this act on the sale of food or drink
18 from a vending machine ~~selling both taxable items and items exempt~~
19 ~~under this subsection shall be calculated under this act based on 1~~
20 ~~of the following as determined by the taxpayer:~~

21 ~~—— (a) Actual~~ **THE** gross proceeds from sales at retail.

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

25 (3) "Food and food ingredients" means substances, whether in
26 liquid, concentrated, solid, frozen, dried, or dehydrated form,
27 that are sold for ingestion or chewing by humans and are consumed

1 for their taste or nutritional value. Food and food ingredients do
2 not include alcoholic beverages and tobacco.

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

4 (a) Food sold in a heated state or that is heated by the
5 seller.

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

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

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

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

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

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

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

27 (6) "Prepared food intended for immediate consumption" means

1 prepared food.