

Act No. 108  
Public Acts of 2021  
Approved by the Governor  
November 4, 2021  
Filed with the Secretary of State  
November 5, 2021  
EFFECTIVE DATE: February 3, 2022

**STATE OF MICHIGAN  
101ST LEGISLATURE  
REGULAR SESSION OF 2021**

Introduced by Rep. Posthumus

## **ENROLLED HOUSE BILL No. 5267**

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending sections 4a and 25 (MCL 205.54a and 205.75), section 4a as amended by 2018 PA 673 and section 25 as amended by 2021 PA 38.

*The People of the State of Michigan enact:*

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

(a) A sale of tangible personal property not for resale to a nonprofit school, nonprofit hospital, or nonprofit home for the care and maintenance of children or aged individuals operated by an entity of government, a regularly organized church, religious organization, or fraternal organization, a veterans’ organization, or a corporation incorporated under the laws of this state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, “parent cooperative preschool” means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed under 1973 PA 116, MCL 722.111 to 722.128.

(b) A sale of tangible personal property not for resale to a regularly organized church or house of religious worship, except the following:

(i) Sales in activities that are mainly commercial enterprises.

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

(c) The sale of food to bona fide enrolled students by a school or other educational institution not operated for profit.

(d) The sale of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(e) Except as otherwise provided under subsection (3), a sale of tangible personal property to a person engaged in a business enterprise that uses or consumes the tangible personal property, directly or indirectly, for either the tilling, planting, draining, caring for, maintaining, or harvesting of things of the soil or the breeding, raising, or caring for livestock, poultry, or horticultural products, including the transfers of livestock, poultry, or horticultural products for further growth.

(f) Except as otherwise provided under subsection (3), a sale of any of the following to a person engaged in a business enterprise that uses or consumes the following for purposes as described in subdivision (e):

(i) Machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass.

(ii) Agricultural land tile and subsurface irrigation pipe.

(iii) Portable grain bins, including tangible personal property affixed or to be affixed to portable grain bins and directly used in the operation of a portable grain bin.

(iv) Grain drying equipment and the fuel or energy source that powers that equipment, including tangible personal property affixed or to be affixed to that equipment and directly used in the operation of grain drying equipment.

(v) Tangible personal property purchased and installed as a component part of a structure such as a barn or shop, including, but not limited to, a water supply system, heating and cooling system, lighting system, milking system, or any other appurtenance used for purposes described in this subdivision or subdivision (e), including the maintenance or improvement of existing structures, to the extent that it is not permanently affixed to and does not become a structural part of real estate. For purposes of this subparagraph and subsection (3), property installed as a component part of a structure as provided in this subparagraph is not permanently affixed to or a structural part of real estate if it is assembled and installed in a manner that it can be disassembled without affecting the physical structural functionality of the original structure and reassembled and reused for any of the purposes described in this subdivision or subdivision (e).

(vi) Greenhouses, including tangible personal property affixed to or to be affixed to greenhouses and directly used in the operation of a greenhouse. For purposes of subsection (3), a greenhouse is not permanently affixed to or a structural part of real estate if it is assembled and installed in a manner that it can be disassembled and reassembled without affecting the functionality of the greenhouse upon being reassembled.

(g) The sale of agricultural land tile, subsurface irrigation pipe, portable grain bins, greenhouses, and grain drying equipment to a person in the business of constructing, altering, repairing, or improving real estate for others to the extent that it is affixed to and made a structural part of real estate for others and is used for an exempt purpose described under subdivision (e) or (f).

(h) The sale of tangible personal property used in the direct gathering of fish, by net, line, or otherwise, by an owner-operator of a business enterprise, not including a charter fishing business enterprise.

(i) The sale of a copyrighted motion picture film or a newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than 2 years, and published not less than once a week. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. Tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(j) A sale of tangible personal property to persons licensed to operate commercial radio or television stations if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmission to or receiving from an artificial satellite.

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

(l) The sale of a vehicle not for resale to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(m) Before October 1, 2012, a sale of tangible personal property to inmates in a penal or correctional institution purchased with scrip or its equivalent issued and redeemed by the institution.

(n) A sale of textbooks sold by a public or nonpublic school to or for the use of students enrolled in any part of a kindergarten through twelfth grade program.

(o) A sale of tangible personal property installed as a component part of a water pollution control facility for which a tax exemption certificate is issued under part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued under part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(p) The sale or lease of the following to an industrial laundry:

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

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

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

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

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

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

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

(q) A sale of tangible personal property to a person holding a direct payment permit under section 8 of the use tax act, 1937 PA 94, MCL 205.98.

(r) The sale of a dental prosthesis.

(s) A sale of tangible personal property that is specifically designed for, and directly used in, the harvesting of aquatic vegetation from the waters of the state, including parts and materials used for repairs of that tangible personal property, to a person engaged in a business enterprise of harvesting aquatic vegetation and ultimately used for purposes described in subdivision (e) or (f). This exemption does not include a motor vehicle licensed or required to be licensed for use on the public roads or highways of this state or tangible personal property permanently affixed to and becoming a structural part of real estate.

(t) A sale or lease of a school bus or transportation-related services, and parts or adaptive equipment affixed or to be affixed to a school bus that are used in the repair, maintenance, accommodation, or modification of a school bus, if the school bus or services are primarily used in the performance of a contract entered into with an authorized representative of a school for the transportation of preprimary, primary, or secondary school pupils to or from a school or school-related events authorized by the administration of the school. However, if the school bus is used to provide transportation-related services other than to or from a school or school-related event authorized by the administration of the school to a nonexempt entity, then the amount paid for those services by the nonexempt entity is not exempt under this subdivision. As used in this subdivision:

(i) "Lease" means any transfer of possession or control for a fixed or indeterminate term for consideration and may include future options to purchase or extend.

(ii) "School" means a public school or public school academy as those terms are defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(iii) "School bus" means that term as defined in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807.

(u) The sale of feminine hygiene products. As used in this subdivision, "feminine hygiene products" means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle.

(2) The tangible personal property under subsection (1) is exempt only to the extent that that property is used for the exempt purpose if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

(3) The exemptions under subsection (1)(e), (f), (g), and (h) do not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption or tangible personal property permanently affixed to and becoming a structural part of real estate unless it is agricultural land tile, subsurface irrigation pipe, a portable grain bin, or grain drying equipment.

(4) Subsection (1)(e), (f), and (g) as amended by 2018 PA 113 is intended to be retroactive and to apply to all periods open under section 27a of 1941 PA 122, MCL 205.27a, but does not apply to any refund claims filed before April 9, 2018.

(5) As used in this section:

(a) "Agricultural land tile" means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land.

(b) "Algae" means any of the group of nonvascular aquatic plants that do not have stems, flowers, leaves, and roots, and that are single-celled, colonial, or filamentous forms.

(c) "Aquatic vegetation" means both algae and higher aquatic plants.

(d) "Biomass" means crop residue used to produce energy or agricultural crops grown specifically for the production of energy.

(e) "Greenhouse" means a structure covered with transparent or translucent materials for the purpose of admitting natural light and controlling the atmosphere for growing horticultural products. Greenhouse does not include a structure primarily used to grow marihuana.

(f) "Higher aquatic plant" means any of the group of vascularized plants that have true stems, flowers, leaves, and roots, that live in water, and that belong to the class Angiospermae.

(g) "Portable grain bin" means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts.

(h) "Waters of the state" means that term as defined in section 3302 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3302.

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

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

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

(4) Except as otherwise provided in this subsection, not less than 27.9% of 25% of the collections of the general sales tax imposed at a rate of 4% directly or indirectly on fuels sold to propel motor vehicles upon highways, on the sale of motor vehicles, and on the sale of the parts and accessories of motor vehicles by new and used car businesses, used car businesses, accessory dealer businesses, and gasoline station businesses as classified by the department must be deposited each year into the comprehensive transportation fund. For the fiscal year ending September 30, 2021 only, the amount deposited into the comprehensive transportation fund under this subsection must be reduced by \$18,000,000.00 and that \$18,000,000.00 must be deposited into the transportation administration collection fund.

(5) Beginning October 1, 2016 and the first day of each calendar quarter thereafter, an amount equal to the collections for the calendar quarter that is 2 calendar quarters immediately preceding the current calendar quarter of the tax imposed under this act at the additional rate of 2% approved by the electors on March 15, 1994 from the sale at retail of aviation fuel must be distributed as follows:

(a) An amount equal to 35% of the collections of the tax imposed at a rate of 2% on the sale at retail of aviation fuel must be deposited in the state aeronautics fund and must be expended, on appropriation, only for those purposes authorized in the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.

(b) An amount equal to 65% of the collections of the tax imposed at a rate of 2% on the sale at retail of aviation fuel must be deposited in the qualified airport fund and must be expended, on appropriation, only for those purposes authorized under section 35 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.35.

(6) The department shall, on an annual basis, reconcile the amounts distributed under subsection (5) during each fiscal year with the amounts actually collected for a particular fiscal year and shall make any necessary adjustments, positive or negative, to the amounts to be distributed for the next successive calendar quarter that begins January 1. The state treasurer or his or her designee shall annually provide to the operator of each qualified airport a report of the reconciliation performed under this subsection. The reconciliation report is subject to the confidentiality restrictions and penalties provided in section 28(1)(f) of 1941 PA 122, MCL 205.28.

(7) An amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of computer software must be deposited in the Michigan health initiative fund created in section 5911 of the public health code, 1978 PA 368, MCL 333.5911, and must be considered in addition to, and is not intended as a replacement for any other money appropriated to the department of health and human services. The funds deposited in the Michigan health initiative fund on an annual basis must not be less than \$9,000,000.00 or more than \$12,000,000.00.

(8) An amount equal to all revenue lost to the state school aid fund as a result of the exemptions under sections 4a(1)(u) and 4ee, as determined by the department, must be deposited into the state school aid fund established in section 11 of article IX of the state constitution of 1963. Money deposited into the state school aid fund under this subsection must not include and must be considered in addition to money deposited in the state school aid fund under subsection (3). A person that claims an exemption under section 4ee shall report the sales price of the data center equipment as defined in section 4ee and any other information necessary to determine the amount of revenue lost to the state school aid fund as a result of the exemption under section 4ee annually on a form at the time and in a manner prescribed by the department. The report required under this subsection must not include any remittance for tax, and does not constitute a return or otherwise alleviate any obligations under section 6.

(9) The balance in the state general fund shall be disbursed only on an appropriation or appropriations by the legislature.

(10) As used in this section:

(a) "Aviation fuel" means fuel as that term is defined in section 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(b) "Comprehensive transportation fund" means the comprehensive transportation fund created in section 10b of 1951 PA 51, MCL 247.660b.

(c) "Qualified airport" means that term as defined in section 109 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.109.

(d) "Qualified airport fund" means the qualified airport fund created in section 34(2) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34.

(e) "State aeronautics fund" means the state aeronautics fund created in section 34(1) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34.

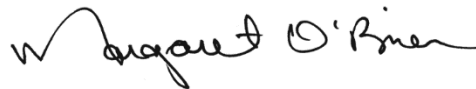
(f) "Transportation administration collection fund" means the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved \_\_\_\_\_

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Governor