

Act No. 141
Public Act of 1989
July 11, 1989
Filed by the Secretary of State
July 11, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Profit, Owen, Hoekman, Power and Joe Young, Jr.

ENROLLED HOUSE BILL No. 4617

AN ACT to amend section 4 of Act No. 94 of the Public Acts of 1937, entitled as amended "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," as amended by Act No. 459 of the Public Acts of 1988, being section 205.94 of the Michigan Compiled Laws; and to add section 4j.

The People of the State of Michigan enact:

Section 1. Section 4 of Act No. 94 of the Public Acts of 1937, as amended by Act No. 459 of the Public Acts of 1988, being section 205.94 of the Michigan Compiled Laws, is amended and section 4j is added to read as follows:

Sec. 4. The tax levied shall not apply to:

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Michigan Compiled Laws, if the tax was due and paid on the retail sale to a consumer.

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

(c) Property purchased for resale, demonstration purposes, or lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel. For a dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediate prior year without regard to specific make or style in accordance with the following schedule: 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes.

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

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

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. In that case, at the time of the transfer of the tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. The statement shall be accepted by the courts as prima facie evidence of the exemption. Beginning January 1, 1989, this exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which 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. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption shall not include tangible personal property permanently affixed and becoming a structural part of real estate.

(g) Property sold to the following:

(i) An industrial processor for use or consumption in industrial processing. Property used or consumed in industrial processing does not include tangible personal property permanently affixed and becoming a structural part of real estate; office furniture, office supplies, and administrative office equipment; or vehicles licensed and titled for use on public highways. Industrial processing does not include receipt and storage of raw materials purchased or extracted by the user or consumer, or the preparation of food and beverages by a retailer for retail sale. As used in this subdivision, "industrial processor" means a person who transforms, alters, or modifies tangible personal property by changing the form, composition, or character of the property for ultimate sale at retail or sale to another industrial processor to be further processed for ultimate sale at retail. Sales to a person performing a service who does not act as an industrial processor while performing the service may not be excluded under this subdivision, except as provided in subparagraph (ii).

(ii) After December 31, 1984, a person, whether or not the person is an industrial processor, when the property is a computer used in operating industrial processing equipment; equipment used in a computer assisted manufacturing system; equipment used in a computer assisted design or engineering system integral to an industrial process; or a subunit or electronic assembly comprising a component in a computer integrated industrial processing system.

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

(i) Property or services sold to a school, hospital, home for the care and maintenance of children or aged persons, or other health, welfare, educational, cultural arts, charitable, or benevolent institution or agency, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, when not operated for profit, and when 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 when 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 a restricted group. The tax levied shall not apply to property or services sold to a parent cooperative preschool. 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, which provides an educational and developmental program for children younger than compulsory school age, which provides an educational program for parents, including active participation with children in preschool activities, which is directed by qualified preschool personnel, and which is licensed by the department of social services pursuant to Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

(j) Property or services sold to a regularly organized church or house of religious worship except:

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

(ii) Sales of vehicles licensed for use on the 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 persons for religious purposes.

(k) A vessel designed for commercial use of registered tonnage of 500 tons or more, when produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(l) Property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent the property is affixed to and made a structural part of the real estate of a

nonprofit hospital or a nonprofit housing entity qualified as exempt pursuant to section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, as amended, being section 125.1415a of the Michigan Compiled Laws. A nonprofit hospital or nonprofit housing includes only the property of a nonprofit hospital or the homes or dwelling places constructed by a nonprofit housing entity, the income or property of which does not directly or indirectly inure to the benefit of an individual, private stockholder, or other private person.

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

(n) A newspaper or periodical classified 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 at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed, and not becoming a component part of a newspaper or periodical, except 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, and a copyrighted motion picture film is subject to tax. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical, and thereby not subject to tax, shall include an advertising supplement inserted into and circulated with a newspaper or periodical which 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.

(o) Property purchased by persons licensed to operate a commercial radio or television station when 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 transmitting to or receiving from an artificial satellite.

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

(q) A vehicle for which a special registration is secured in accordance with section 226(9) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being section 257.226 of the Michigan Compiled Laws.

(r) A hearing aid, contact lenses if prescribed for a specific disease which precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life when the tangible personal property is purchased on a written prescription or order issued by a licensed health professional as defined by section 4 of former Act No. 264 of the Public Acts of 1974, as amended, being section 325.904 of the Michigan Compiled Laws, or section 21005 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.21005 of the Michigan Compiled Laws, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

(s) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

(t) The purchase of machinery and equipment for use or consumption in the rendition of a service, the use or consumption of which is taxable under section 3a(a) except that this exception is limited to the tangible personal property located on the premises of the subscriber and the necessary exchange equipment.

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

(v) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 222 of the Public Acts of 1966, as amended, being sections 323.351 to 323.358 of the Michigan Compiled Laws, or an air pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 250 of the Public Acts of 1965, as amended, being sections 336.1 to 336.8 of the Michigan Compiled Laws.

(w) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b) of the general sales tax act, Act No. 167 of the Public Acts of 1933, as amended, being section 205.54a of the Michigan Compiled Laws.

(x) The storage, use, or consumption of any aircraft owned or used by a domestic passenger air carrier operating under a certificate issued by the civil aeronautics board pursuant to section 401 of title IV of the federal aviation act of 1958, 49 U.S.C. 1371, if the aircraft is used primarily in the regularly scheduled commercial transport of passengers.

Sec. 4j. (1) The tax levied under this act does not apply to a motor vehicle acquired by a towing company from a police agency as satisfaction for towing and storage charges if the motor vehicle was impounded by the police agency or determined to be an abandoned vehicle or an abandoned scrap vehicle by the police agency.

(2) As used in this section:

(a) "Abandoned vehicle" means a vehicle that has remained on public property or any other place open to travel by the public without the consent of the local police agency for a period of 48 hours after a police agency has affixed a written notice to the vehicle.

(b) "Abandoned scrap vehicle" means a vehicle that meets all of the following requirements:

(i) Is on public property or any other place open to travel by the public.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged to the extent that the cost of repairing the vehicle so that it is operational and safe would exceed the fair market value of that vehicle.

(iv) Is not currently registered pursuant to the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(v) Is not removed within 48 hours after a police agency has affixed a written notice to the vehicle.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.