

# HOUSE BILL No. 6147

November 8, 1990, Introduced by Reps. Jaye and Dunaskiss and referred to the Committee on Taxation.

A bill to amend section 54a of Act No. 167 of the Public Acts of 1933, entitled as amended

"General sales tax act,"

as amended by Act No. 519 of the Public Acts of 1988, being section 205.54a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 54a of Act No. 167 of the Public Acts of  
2 1933, as amended by Act No. 519 of the Public Acts of 1988, being  
3 section 205.54a of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 4a. A person subject to tax under this act need not  
6 include in the amount of the gross proceeds used for the computa-  
7 tion of the tax, sales of tangible personal property:

8       (a) Not for resale, and when not operated for profit, to a  
9 school, hospital, home for the care and maintenance of children

1 or aged persons, or other health, welfare, educational, cultural  
2 arts, charitable, or benevolent institution or agency, operated  
3 by an entity of government, a regularly organized church, reli-  
4 gious, or fraternal organization, a veterans' organization, or a  
5 corporation incorporated under the laws of the state, when the  
6 income or benefit from the operation does not inure, in whole or  
7 in part, to an individual or private shareholder, directly or  
8 indirectly, and when the activities of the entity or agency are  
9 carried on exclusively for the benefit of the public at large and  
10 are not limited to the advantage, interests, and benefits of its  
11 members or any restricted group. In these cases, at the time of  
12 the transfer of the tangible personal property, the transferee  
13 shall sign a statement, in a form approved by the department,  
14 stating that the property is to be used or consumed in connection  
15 with the operation of the institution or agency and that the  
16 institution or agency qualifies as an exempt entity under this  
17 subdivision. The statement shall be accepted by all courts as  
18 prima facie evidence of the exemption, and the statement shall  
19 provide that if the claim for tax exemption is disallowed the  
20 transferee will reimburse the transferor for the amount of tax  
21 involved. A sale of tangible personal property to a parent coop-  
22 erative preschool is exempt from taxation under this act. As  
23 used in this subdivision, "parent cooperative preschool" means a  
24 nonprofit, nondiscriminatory educational institution, maintained  
25 as a community service and administered by parents of children  
26 currently enrolled in the preschool, which provides an  
27 educational and developmental program for children younger than

1 compulsory school age, which provides an educational program for  
2 parents, including active participation with children in pre-  
3 school activities, which is directed by qualified preschool per-  
4 sonnel, and which is licensed by the department of social serv-  
5 ices pursuant to Act No. 116 of the Public Acts of 1973, as  
6 amended, being sections 722.111 to 722.128 of the Michigan  
7 Compiled Laws.

8 (b) Not for resale to a regularly organized church or house  
9 of religious worship, except:

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

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

16 (c) To bona fide enrolled students — of food by a school  
17 or other educational institution not operated for profit.

18 (d) Affixed to and made a structural part of real estate  
19 excepted from the definition of "sale at retail" under section  
20 1(1)(c).

21 (e) To persons, of a vessel designated for commercial use of  
22 registered tonnage of 500 tons or more, when produced upon spe-  
23 cial order of the purchaser, and bunker and galley fuel, provi-  
24 sions, supplies, maintenance, and repairs for the exclusive use  
25 of the vessel engaged in interstate commerce.

26 (f) To persons engaged in a business enterprise and using or  
27 consuming the tangible personal property in the tilling,

1 planting, caring for, or harvesting of the things of the soil; in  
2 the breeding, raising, or caring for livestock, poultry, or  
3 horticultural products, including transfers of livestock, poul-  
4 try, or horticultural products for further growth; or in the  
5 direct gathering of fish, by net, line, or otherwise, only by an  
6 owner-operator of the business enterprise, not including a  
7 charter fishing business enterprise. This exemption includes  
8 agricultural land tile, which means fired clay or perforated  
9 plastic tubing used as part of a subsurface drainage system for  
10 land used in the production of agricultural products as a busi-  
11 ness enterprise. In these cases, at the time of the transfer of  
12 the tangible personal property, the transferee shall sign a  
13 statement, in a form approved by the department, stating that the  
14 property is to be used or consumed in connection with the produc-  
15 tion of horticultural or agricultural products as a business  
16 enterprise, or in connection with fishing as an owner-operator  
17 business enterprise. The statement shall be accepted by all  
18 courts as prima facie evidence of the exemption. This exemption  
19 includes a portable grain bin, which means a structure that is  
20 used or is to be used to shelter grain and that is designed to be  
21 disassembled without significant damage to its component parts.  
22 This exemption does not include transfers of food, fuel, cloth-  
23 ing, or any similar tangible personal property for personal  
24 living or human consumption. This exemption does not include  
25 tangible personal property permanently affixed and becoming a  
26 structural part of real estate.

1 (g) To the following:

2 (i) An industrial processor for use or consumption in  
3 industrial processing. Property used or consumed in industrial  
4 processing does not include tangible personal property per-  
5 manently affixed and becoming a structural part of real estate;  
6 office furniture, office supplies, and administrative office  
7 equipment; or vehicles licensed and titled for use on public  
8 highways. Industrial processing does not include receiving and  
9 storage of raw materials purchased or extracted by the user or  
10 consumer; or the preparation of food and beverages by a retailer  
11 for retail sale. As used in this subdivision, "industrial  
12 processor" means a person who transforms, alters, or modifies  
13 tangible personal property by changing the form, composition, or  
14 character of the property for ultimate sale at retail or sale to  
15 another industrial processor to be further processed for ultimate  
16 sale at retail. Sales to a person performing a service who does  
17 not act as an industrial processor while performing this service  
18 shall not be excluded under this subdivision except as provided  
19 in subparagraph (ii).

20 (ii) After December 31, 1984, a person, whether or not the  
21 person is an industrial processor, when the tangible personal  
22 property is a computer used in operating industrial processing  
23 equipment; equipment used in a computer assisted manufacturing  
24 system; equipment used in a computer assisted design or engineer-  
25 ing system integral to an industrial process; or a subunit or  
26 electronic assembly comprising a component in a computer  
27 integrated industrial processing system.

1 (h) To persons ~~of~~ of a newspaper or periodical admitted  
2 under federal postal laws and regulations effective September 1,  
3 1985 as second-class mail matter or as a controlled circulation  
4 publication or qualified to accept legal notices for publication  
5 in this state, as defined by law; ~~or~~ any other newspaper or  
6 periodical of general circulation, established not less than 2  
7 years ~~and~~ and published not less than once a week; ~~and~~ OR  
8 copyrighted motion picture films. Tangible personal property  
9 used or consumed, and not becoming a component part of a newspa-  
10 per or periodical, except that portion or percentage of tangible  
11 personal property used or consumed in producing an advertising  
12 supplement that becomes a component part of a newspaper or peri-  
13 odical, and copyrighted motion picture films are subject to tax.  
14 For purposes of this subdivision, tangible personal property that  
15 becomes a component part of a newspaper or periodical, and  
16 thereby not subject to tax, shall include an advertising supple-  
17 ment inserted into and circulated with a newspaper or periodical  
18 that is otherwise exempt from tax under this subdivision, if the  
19 advertising supplement is delivered directly to the newspaper or  
20 periodical by a person other than the advertiser, or the adver-  
21 tising supplement is printed by the newspaper or periodical.

22 (i) To persons licensed to operate commercial radio or tele-  
23 vision stations when the property is used in the origination or  
24 integration of the various sources of program material for com-  
25 mercial radio or television transmission. This subdivision does  
26 not include a vehicle licensed and titled for use on public

1 highways or property used in the transmission to or receiving  
2 from an artificial satellite.

3       (k) ~~A~~ TO AN INDIVIDUAL OF A hearing aid, contact lenses if  
4 prescribed for a specific disease that precludes the use of eye-  
5 glasses, or any other apparatus, device, or equipment used to  
6 replace or substitute for a part of the human body, or used to  
7 assist the disabled person to lead a reasonably normal life if  
8 the tangible personal property is purchased on a written pre-  
9 scription or order issued by a ~~licensed~~ health professional as  
10 defined by section 21005 of the public health code, Act No. 368  
11 of the Public Acts of 1978, being section 333.21005 of the  
12 Michigan Compiled Laws, or eyeglasses prescribed or dispensed to  
13 correct the ~~person's~~ INDIVIDUAL'S vision by an ophthalmologist,  
14 optometrist, or optician.

15       (l) To persons for use or consumption in the rendition of a  
16 service, the use or consumption of which is taxable under section  
17 3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937,  
18 as amended, being section 205.93a of the Michigan Compiled Laws,  
19 except that this exemption shall be limited to the tangible per-  
20 sonal property located on the premises of the subscriber and the  
21 necessary exchange equipment.

22       (m) Not for resale of a vehicle to a Michigan nonprofit cor-  
23 poration organized exclusively to provide a community with ambu-  
24 lance or fire department services.

25       (n) To inmates in a penal or correction institution pur-  
26 chased with scrip issued and redeemed by the institution.

1 (o) To or for the use of students enrolled in any part of a  
2 kindergarten through twelfth grade program ~~—~~ of textbooks sold  
3 by a public or nonpublic school.

4 (p) ~~—Installed~~ TO A PERSON THAT IS INSTALLED as a component  
5 part of a water pollution control facility for which a tax exemp-  
6 tion certificate is issued pursuant to Act No. 222 of the Public  
7 Acts of 1966, as amended, being sections 323.351 to 323.358 of  
8 the Michigan Compiled Laws, or an air pollution control facility  
9 for which a tax exemption certificate is issued pursuant to Act  
10 No. 250 of the Public Acts of 1965, as amended, being sections  
11 336.1 to 336.8 of the Michigan Compiled Laws.

12 (Q) TO A PERSON OF A USED OR SECONDHAND VEHICLE AS DEFINED  
13 BY SECTION 78 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE  
14 PUBLIC ACTS OF 1949, BEING SECTION 257.78 OF THE MICHIGAN  
15 COMPILED LAWS.