

HOUSE BILL No. 4464

April 16, 2015, Introduced by Rep. Lyons and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
 "General sales tax act,"
 by amending section 4g (MCL 205.54g), as amended by 2013 PA 211.

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) ~~The sale of a prescription drug~~ **SALES OF DRUGS** for human
 4 use **THAT CAN ONLY BE LEGALLY DISPENSED BY PRESCRIPTION**, an over-
 5 the-counter ~~drug~~ **DRUGS** for human use ~~pursuant to a~~ **THAT ARE LEGALLY**
 6 **DISPENSED BY** prescription, or food or food ingredients, except
 7 prepared food intended for immediate human consumption. As used in
 8 this subdivision, ~~"prescription" and "prescription drug" mean those~~
 9 ~~terms as defined in section 17708 of the public health code, 1978~~
 10 ~~PA 368, MCL 333.17708.~~ **"OVER-THE-COUNTER DRUG" MEANS A DRUG THAT IS**

1 **LABELED IN ACCORDANCE WITH THE FORMAT AND CONTENT REQUIREMENTS**
2 **REQUIRED FOR LABELING OVER-THE-COUNTER DRUGS UNDER 21 CFR 201.66.**

3 (b) The deposit on a returnable container for a beverage or
4 the deposit on a carton or case that is used for returnable
5 containers.

6 (c) Food or tangible personal property purchased under the
7 federal food stamp program or meals sold by a person exempt from
8 the tax under this act that are eligible to be purchased under the
9 federal food stamp program.

10 (d) Fruit or vegetable seeds and fruit or vegetable plants if
11 purchased at a place of business authorized to accept food stamps
12 by the ~~food~~**FOOD** and ~~nutrition service~~**NUTRITION SERVICE** of the
13 United States ~~department~~**DEPARTMENT** of ~~agriculture~~**AGRICULTURE** or a
14 place of business that has made a complete and proper application
15 for authorization to accept food stamps but has been denied
16 authorization and provides proof of denial to the department of
17 treasury.

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

20 (2) Food or drink heated or cooled mechanically, electrically,
21 or by other artificial means to an average temperature above 75
22 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and
23 sold from a vending machine, except milk, nonalcoholic beverages in
24 a sealed container, and fresh fruit, is subject to the tax under
25 this act. The tax due under this act on the sale of food or drink
26 from a vending machine selling both taxable items and items exempt
27 under this subsection shall be calculated under this act based on 1

1 of the following as determined by the taxpayer:

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

3 (b) Forty-five percent of proceeds from the sale of items
4 subject to tax under this act or exempt from the tax levied under
5 this act, other than from the sale of carbonated beverages.

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

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

12 (a) Food sold in a heated state or that is heated by the
13 seller.

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

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

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

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

23 (b) Raw eggs, fish, meat, poultry, and foods containing those
24 raw items requiring cooking by the consumer in recommendations
25 contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001
26 food code published by the ~~feed~~**FOOD** and ~~drug administration~~**DRUG**
27 **ADMINISTRATION** of the ~~public health service~~**PUBLIC HEALTH SERVICE**

1 of the ~~department~~ **DEPARTMENT** of health ~~HEALTH~~ and ~~human services,~~
2 **HUMAN SERVICES**, to prevent foodborne illness.

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

5 (d) Bakery items, including bread, rolls, buns, biscuits,
6 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,
7 pies, tarts, muffins, bars, cookies, and tortillas, sold without
8 eating utensils.

9 (6) "Prepared food intended for immediate consumption" means
10 prepared food.

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