

believes that the district or intermediate district is still not in compliance with law based on the findings made by the intermediate superintendent of the intermediate district, the parent may appeal the findings to the department. If there is an appeal to the department under this subsection, the department shall investigate the complaint and, within 90 days after the date of the appeal, provide a written report of its findings to the parent or legal guardian who filed the appeal, to the superintendent of public instruction, and to the district and intermediate district. If the department finds 1 or more violations as a result of its investigation, then all of the following apply:

(a) The department shall develop a plan for corrective action for the district or intermediate district to take to correct the situation to ensure that there is no further violation, and shall include this plan for corrective action with the written report provided to the parent or legal guardian, the superintendent of public instruction, and the district or intermediate district. The district or intermediate district shall take the corrective action described in the plan within 30 days after the date of the written report.

(b) In addition to withholding the percentage of state school aid forfeited by the district or intermediate district under subsection (5), the department may assess a fee to the district or intermediate district that committed the violation in an amount not to exceed the actual cost to the department of conducting the investigation and making the reports required under this subsection.

(5) If an investigation conducted by the department under subsection (4) reveals that a district or intermediate district has committed 1 or more violations of this section or section 1169, 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506, and 380.1507, the district or intermediate district shall forfeit an amount equal to 1% of its total state school aid allocation under this act.

(6) The department, with the approval of the superintendent of public instruction, shall establish a reasonable process for a complainant to appeal to the department under subsection (4). The process shall not place an undue burden on the complainant, the district or intermediate district, or the department.

(7) The department shall track the number of complaints and appeals it receives under this section for the 2004-2005 school year and, not later than the end of that school year, shall submit a report to the standing committees and appropriations subcommittees of the legislature having jurisdiction over education legislation and state school aid that details the number and nature of those complaints and appeals and the cost to the department of handling them.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 943 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

Compiler's note: Senate Bill No. 943, referred to in enacting section 1, was filed with the Secretary of State June 24, 2004, and became P.A. 2004, No. 165, Imd. Eff. June 24, 2004.

[No. 167]

(SB 151)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 6 of chapter V (MCL 765.6), as amended by 1988 PA 46.

The People of the State of Michigan enact:

CHAPTER V

765.6 Accused persons entitled to bail; amount of bail; considerations and findings; surety bond; surrender by defendant of operator's or chauffeur's license as security; receipt; expiration date; extension; written notice; return of license.

Sec. 6. (1) Except as otherwise provided by law, a person accused of a criminal offense is entitled to bail. The amount of bail shall not be excessive. The court in fixing the amount of the bail shall consider and make findings on the record as to each of the following:

- (a) The seriousness of the offense charged.
- (b) The protection of the public.
- (c) The previous criminal record and the dangerousness of the person accused.
- (d) The probability or improbability of the person accused appearing at the trial of the cause.

(2) If the court fixes a bail amount under subsection (1) and allows for the posting of a 10% deposit bond, the person accused may post bail by a surety bond in an amount equal to 1/4 of the full bail amount fixed under subsection (1) and executed by a surety approved by the court.

(3) If a person is arrested for an ordinance violation or a misdemeanor and if the defendant's operator's or chauffeur's license is not expired, suspended, revoked, or cancelled, the court may require the defendant, in place of other security for the defendant's appearance in court for trial or sentencing or, as a condition for release of the defendant on personal recognizance, to surrender to the court his or her operator's or chauffeur's license. The court shall issue to the defendant a receipt for the license, as provided in section 311a of the Michigan vehicle code, 1949 PA 300, MCL 257.311a. If the trial date is set at the arraignment, the court shall specify on the receipt the date on which the

defendant is required to appear for trial. If a trial date is not set at the arraignment, the court shall specify on the receipt a date on which the receipt expires. By written notice the court may extend the expiration date of the receipt, as needed, to secure the defendant's appearance for trial and sentencing. The written notice shall instruct the person to whom the receipt was issued to attach the notice to the receipt. Upon its attachment to the receipt, the written notice shall be considered a part of the receipt for purposes of determining the expiration date. At the conclusion of the trial or imposition of sentence, as applicable, the court shall return the license to the defendant unless other disposition of the license is authorized by law.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

[No. 168]

(HB 5273)

AN ACT to amend 1963 PA 181, entitled "An act to promote safety upon the public highways by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal certain acts and parts of acts," by amending section 7c (MCL 480.17c), as amended by 2002 PA 118.

The People of the State of Michigan enact:

480.17c Owner or user of certain vehicles; transporting package or hazardous material required to be marked, labeled, or endorsed; violation; penalty; owner or user of hazardous materials vehicle inspection or repair facility; violation as misdemeanor.

Sec. 7c. (1) A driver or operator or an owner or user of a bus, truck, truck tractor, or trailer, or certain other motor vehicles, or an officer or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of a vehicle, who requires or permits the driver or operator to operate or drive a bus, truck, truck tractor, or trailer, or certain other motor vehicles, that violates this act or a rule promulgated under this act if the vehicle is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180, is responsible for a state civil infraction and may be ordered to pay a fine of not more than \$500.00 for each violation.

(2) A motor carrier shall not transport, or require, permit, or allow to be transported, hazardous material for which a placard is required under 49 CFR parts 100 to 199, in a vehicle identified in subsection (1) if the person that is transporting the hazardous material does not have a hazardous material endorsement on his or her operator's or chauffeur's license. A motor carrier that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(3) A person or entity identified in subsection (1) or (2) who knowingly or willfully violates this act or a rule promulgated under this act is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(4) A person or entity identified in subsection (1) or (2) who causes injury or death during a violation of this act, while a vehicle identified in subsection (1) that is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is used, is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(5) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this act, or a rule promulgated under this act, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as prescribed in this section.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

[No. 169]

(HB 5730)

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending section 517 (MCL 436.1517).

The People of the State of Michigan enact:

436.1517 International sporting event licenses; issuance in connection with international golf tournament; circumstances; duration; limitation; list; recommendation by governing body; certification of compliance; fee.

Sec. 517. (1) The commission may issue international sporting event licenses for the sale of alcoholic liquor for consumption on the premises in connection with an international golf tournament conducted during calendar year 2004 if all of the following circumstances are found by the commission to exist:

(a) The local governmental unit in which the international sporting event is to be conducted is the host governmental unit for that event.

(b) The premises to be licensed are located in a theme area or theme areas designated by the governing body of the host governmental unit in connection with the international sporting event or are operated in conjunction with that event.

(c) The commission determines that the international sporting event will attract a substantial number of tourists from outside this state.

(d) The international sporting event is conducted under the auspices of a national or international sanctioning body.

(e) The applicant is any of the following:

(i) A Michigan licensee for the sale of alcoholic liquor for consumption on the premises.

(ii) The promoter of the international sporting event or an affiliate of the promoter.

(iii) A person who has entered into a written concession or catering agreement with the promoter of the international sporting event or its affiliate, which agreement has been approved by the commission.

(iv) An organization qualified for licensure as a special licensee under section 111(10) and the rules of the commission.

(2) Licenses issued under this section shall be for a period of not more than 30 consecutive days and are not transferable as to ownership or location. The license shall be for specific designated time periods that include the international sporting event and activities associated with the event.

(3) Not more than 40 licenses shall be issued under this section for use at the same time in a theme area or theme areas.

(4) The governing body of a host governmental unit described in subsection (1) shall supply to the commission for the commission's review a list containing the names of applicants and the locations of the premises to be licensed under this section. The governing body of the host governmental unit shall recommend the number of licenses to be issued pursuant to this section in the theme area or theme areas. The commission shall not issue any licenses pursuant to this section that are not recommended by the governing body of the host governmental unit.

(5) The governing body of the host governmental unit shall provide, in conjunction with the list described in subsection (4), written certification to the commission that all premises to be licensed under this section comply with applicable state and local building, safety, and health laws, rules, and regulations.

(6) A license issued pursuant to this section is not subject to section 503.

(7) An applicant for a license under this section shall pay to the commission a license fee of \$1,000.00 at the time of application.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5731 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

[No. 170]**(HB 5731)**

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” (MCL 436.1101 to 436.2303) by adding section 517a.

The People of the State of Michigan enact:

436.1517a National sporting event license; issuance; circumstances; duration; limitation on number of licenses issued; recommendation of governing body of host governmental unit; certification of compliance with applicable laws, rules, and regulations; fee; “national sporting event” defined.

Sec. 517a. (1) The commission may issue national sporting event licenses for the sale of alcoholic liquor for consumption on the premises concerning a national sporting event, if all of the following circumstances are found by the commission to exist:

(a) The local governmental unit in which the national sporting event is to be conducted is the host governmental unit for that event.

(b) The premises to be licensed are located in a theme area or theme areas designated by the governing body of the host governmental unit in connection with the national sporting event or are operated in conjunction with that event.

(c) The commission determines that the national sporting event will attract a substantial number of tourists from outside this state.

(d) The national sporting event is conducted under the auspices of a national sanctioning body.

(e) The applicant is any of the following:

(i) A Michigan licensee for the sale of alcoholic liquor for consumption on the premises.

(ii) The promoter of the national sporting event or an affiliate of the promoter.

(iii) A person who has entered into a written concession or catering agreement with the promoter of the national sporting event or its affiliate, which agreement has been approved by the commission.

(iv) An organization qualified for licensure as a special licensee under section 111(10) and the rules of the commission.

(2) Licenses issued under this section shall be for a period of not more than 30 consecutive days and are not transferable as to ownership or location. The license shall be for specific

designated time periods that include the national sporting event and activities associated with the national sporting event.

(3) Not more than 40 licenses shall be issued under this section for use at the same time in a theme area or theme areas.

(4) The governing body of a host governmental unit described in subsection (1) shall supply to the commission for the commission's review a list containing the names of applicants and the locations of the premises to be licensed under this section. The governing body of the host governmental unit shall recommend the number of licenses to be issued pursuant to this section in the theme area or theme areas. The commission shall not issue any licenses pursuant to this section that are not recommended by the governing body of the host governmental unit.

(5) The governing body of the host governmental unit shall provide, in conjunction with the list described in subsection (4), written certification to the commission that all premises to be licensed under this section comply with applicable state and local building, safety, and health laws, rules, and regulations.

(6) A license issued pursuant to this section is not subject to section 503.

(7) An applicant for a license under this section shall pay to the commission a license fee of \$1,000.00 at the time of application.

(8) As used in this section, "national sporting event" means a sports related event considered of national prominence and includes only the following:

- (a) The major league baseball all-star game during calendar year 2005.
- (b) The national football league super bowl during calendar year 2006.
- (c) The professional golfers association championship during calendar year 2008.
- (d) The national college athletic association final four games during calendar year 2009.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5730 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

Compiler's note: House Bill No. 5730, referred to in enacting section 1, was filed with the Secretary of State June 24, 2004, and became P.A. 2004, No. 169, Imd. Eff. June 24, 2004.

[No. 171]

(SB 296)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in

an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 3406l.

The People of the State of Michigan enact:

500.3406l / Medical transportation services; reimbursement.

Sec. 3406l. (1) Except as otherwise provided in subsections (2) and (3), an expense-incurred hospital, medical, or surgical policy or certificate that provides benefits for emergency services shall provide for direct reimbursement to any provider of covered medical transportation services or shall provide that payment be made jointly to the insured and the provider, if that provider has not received payment for those services from any other source.

(2) Subsection (1) does not apply to a transaction between an insurer and a medical transportation service provider if the parties have entered into a contract providing for direct payment.

(3) An insurer for a policy or certificate issued under section 3405 or 3631 does not have to provide for direct reimbursement to any nonaffiliated or nonparticipating provider for medical transportation services that were not emergency health services as defined in section 3406k.

(4) Subsection (1) applies to an expense-incurred hospital, medical, or surgical policy or certificate that provides benefits for emergency health services if the policy or certificate is delivered, issued for delivery, or renewed in this state on or after September 1, 2004.

(5) This section does not apply to a health maintenance organization contract.

This act is ordered to take immediate effect.

Approved June 24, 2004.

Filed with Secretary of State June 24, 2004.

[No. 172]

(HB 5502)

AN ACT to amend 1937 PA 94, entitled “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,” by amending sections 2, 3, 3a, 4, 4a, 4d, 4f, 4o, 5, 6, 6a, 8, 9, 9a, 10, 11, and 14 (MCL 205.92, 205.93, 205.93a, 205.94, 205.94a, 205.94d, 205.94f, 205.94o, 205.95, 205.96, 205.96a, 205.98, 205.99, 205.99a, 205.100, 205.101, and 205.104), sections 2 and 4 as amended by 2002 PA 669, section 3 as amended by 2003 PA 27, section 3a as amended by 2002 PA 455, section 4d as amended by 2000 PA 328, section 4f as amended by 1998 PA 266, sections 4o, 8, and 9a as added by 1999 PA 117, section 5 as amended by 2002 PA 580, section 6 as amended by 2003 PA 24, section 6a as added by 2002 PA 511, section 10 as amended by 1998 PA 366, section 11 as added by 2000 PA 153, and section 14 as amended by 1986 PA 41, and by adding sections 2b, 3c, 12, 13, 14a, 14b, 17, 19, and 20; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

205.92 Definitions.

Sec. 2. As used in this act:

(a) “Person” means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether or not organized for profit, company, limited liability company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) “Use” means the exercise of a right or power over tangible personal property incident to the ownership of that property including transfer of the property in a transaction where possession is given.

(c) “Storage” means a keeping or retention of property in this state for any purpose after the property loses its interstate character.

(d) “Seller” means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state. If, in the opinion of the department, it is necessary for the efficient administration of this act to regard a salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates or from whom he or she obtains tangible personal property or services sold by him or her for storage, use, or other consumption in this state, irrespective of whether or not he or she is making the sales on his or her own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so consider him or her, and may

consider the dealer, distributor, supervisor, or employer as the seller for the purpose of this act.

(e) “Purchase” means to acquire for a consideration, whether the acquisition is effected by a transfer of title, of possession, or of both, or a license to use or consume; whether the transfer is absolute or conditional, and by whatever means the transfer is effected; and whether consideration is a price or rental in money, or by way of exchange or barter.

(f) “Purchase price” or “price” means the total amount of consideration paid by the consumer to the seller, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to use tax. Purchase price includes the following subparagraphs (i) through (vi) and excludes subparagraphs (vii) through (viii):

(i) Seller’s cost of the property sold.

(ii) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(iii) Charges by the seller for any services necessary to complete the sale, other than the following:

(A) An amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.

(B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.

(iv) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(v) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(vi) Credit for any trade-in.

(vii) Interest, financing, or carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(viii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(g) “Consumer” means the person who has purchased tangible personal property or services for storage, use, or other consumption in this state and includes a person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(h) “Business” means all activities engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect.

(i) “Department” means the department of treasury.

(j) “Tax” includes all taxes, interest, or penalties levied under this act.

(k) “Tangible personal property” means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

(l) “Textiles” means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels,

sheets, pillows, pillowcases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(m) “Interstate motor carrier” means a person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.

(n) “Qualified commercial motor vehicle” means that term as defined in section 1(i), (j), and (k) of the motor carrier fuel tax act, 1980 PA 119, MCL 207.211.

(o) “Diesel fuel” means that term as defined in section 2(p) of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

(p) “Sale” means a transaction by which tangible personal property or services are purchased or rented for storage, use, or other consumption in this state.

205.92b Additional definitions.

Sec. 2b. As used in this act:

(a) “Alcoholic beverage” means a beverage suitable for human consumption that contains 1/2 of 1% or more of alcohol by volume.

(b) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(c) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(d) “Delivered electronically” means delivered from the seller to the purchaser by means other than tangible storage media.

(e) “Delivery charges” means charges by the seller for preparation and delivery to a location designated by the purchaser of tangible personal property or services. Delivery charges include, but are not limited to, transportation, shipping, postage, handling, crating, and packing.

(f) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that is all of the following:

(i) Required to be labeled as a dietary supplement identifiable by the “supplemental facts” box found on the label as required by 21 CFR 101.36.

(ii) Contains 1 or more of the following dietary ingredients:

(A) A vitamin.

(B) A mineral.

(C) An herb or other botanical.

(D) An amino acid.

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient listed in sub-subparagraphs (A) through (E).

(iii) Intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in 1 of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

(g) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients, including tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material but not including multiple items of printed material delivered to a single address.

(h) “Drug” means a compound, substance, or preparation, or any component of a compound, substance, or preparation, other than food or food ingredients, dietary supplements, or alcoholic beverages, intended for human use that is 1 or more of the following:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or in any of their supplements.

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(iii) Intended to affect the structure or any function of the body.

(i) “Durable medical equipment” means equipment for home use, other than mobility enhancing equipment, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that does all of the following:

(i) Can withstand repeated use.

(ii) Is primarily and customarily used to serve a medical purpose.

(iii) Is not useful generally to a person in the absence of illness or injury.

(iv) Is not worn in or on the body.

(j) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. This definition applies only to leases and rentals entered into after the effective date of the amendatory act that added this section and has no retroactive impact on leases and rentals that existed on that date. Lease or rental does not include the following:

(i) A transfer of possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(ii) A transfer of possession or control of tangible personal property under an agreement requiring transfer of title upon completion of the required payments and payment of an option price that does not exceed \$100.00 or 1% of the total required payments, whichever is greater.

(iii) The provision of tangible personal property along with an operator for a fixed or indeterminate period of time, where that operator is necessary for the equipment to perform as designed. To be necessary, an operator must do more than maintain, inspect, or set up the tangible personal property.

(iv) An agreement covering motor vehicles or trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).

(l) “Mobility enhancing equipment” means equipment, other than durable medical equipment or a motor vehicle or equipment on a motor vehicle normally provided by a

motor vehicle manufacturer, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that is all of the following:

(i) Primarily and customarily used to provide or increase the ability to move from 1 place to another and is appropriate for use at home or on a motor vehicle.

(ii) Not generally used by a person with normal mobility.

(m) “Prescription” means an order, formula, or recipe, issued in any form of oral, written, electronic, or other means of transmission by a licensed physician or other health professional as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(n) “Prewritten computer software” means computer software, including prewritten upgrades, that is delivered by any means and that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Prewritten computer software includes all of the following:

(i) Any combination of 2 or more prewritten computer software programs or portions of prewritten computer software programs.

(ii) Computer software designed and developed by the author or other creator to the specifications of a specific purchaser if it is sold to a person other than that specific purchaser.

(iii) The modification or enhancement of prewritten computer software or portions of prewritten computer software where the modification or enhancement is designed and developed to the specifications of a specific purchaser unless there is a reasonable, separately stated charge or an invoice or other statement of the price is given to the purchaser for the modification or enhancement. If a person other than the original author or creator modifies or enhances prewritten computer software, that person is considered to be the author or creator of only that person’s modifications or enhancements.

(o) “Prosthetic device” means a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed pursuant to a prescription, including repair or replacement parts for that device, worn on or in the body to do 1 or more of the following:

(i) Artificially replace a missing portion of the body.

(ii) Prevent or correct a physical deformity or malfunction of the body.

(iii) Support a weak or deformed portion of the body.

(p) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records; applicability.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a rate equal to 6% of the price of the property or services specified in section 3a or 3b. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, all of the following shall be presumed:

(a) That tangible personal property purchased is subject to the tax if brought into this state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(b) That tangible personal property used solely for personal, nonbusiness purposes that is purchased outside of this state and that is not an aircraft is exempt from the tax levied under this act if 1 or more of the following conditions are satisfied:

(i) The property is purchased by a person who is not a resident of this state at the time of purchase and is brought into this state more than 90 days after the date of purchase.

(ii) The property is purchased by a person who is a resident of this state at the time of purchase and is brought into this state more than 360 days after the date of purchase.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus \$30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, step-sister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

(5) Any decrease in the rate of the tax levied under subsection (1) on services subject to tax under this act shall apply only to billings rendered on or after the effective date of the decrease.

205.93a Tax for use or consumption; services; definitions.

Sec. 3a. (1) The use or consumption of the following is taxed under this act in the same manner as tangible personal property is taxed under this act:

(a) Except as provided in section 3b, intrastate telephone, telegraph, leased wire, and other similar communications, including local telephone exchange and long distance

telephone service that both originates and terminates in Michigan, and telegraph, private line, and teletypewriter service between places in Michigan, but excluding telephone service by coin-operated installations, switchboards, concentrator-identifiers, interoffice circuitry and their accessories for telephone answering service, and directory advertising proceeds.

(b) Rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period of more than 1 month. As used in this act, “hotel” or “motel” means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed under 1973 PA 116, MCL 722.111 to 722.128, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

(c) Except as provided in section 3b, interstate telephone communications that either originate or terminate in this state and for which the charge for the service is billed to a Michigan service address or phone number by the provider either within or outside this state including calls between this state and any place within or without the United States of America outside of this state. However, if the tax under this act is levied at a rate of 6%, this subdivision does not apply to a wide area telecommunication service or a similar type service, an 800 prefix service or similar type service, an interstate private network and related usage charges, or an international call either inbound or outbound.

(d) The laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least 5 days. This subdivision does not apply to the laundering or cleaning of textiles used by a restaurant or retail sales business. As used in this subdivision, “restaurant” means a food service establishment defined and licensed under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(e) The transmission and distribution of electricity, whether the electricity is purchased from the delivering utility or from another provider, if the sale is made to the consumer or user of the electricity for consumption or use rather than for resale.

(f) For a manufacturer who affixes its product to real estate and maintains an inventory of its product that is available for sale to others by publication or price list, the direct production costs and indirect production costs of the product affixed to the real estate that are incident to and necessary for production or manufacturing operations or processes, as defined by the department.

(g) For a manufacturer who affixes its product to real estate but does not maintain an inventory of its product available for sale to others or make its product available for sale to others by publication or price list, the sum of the materials cost of the property and the cost of labor to manufacture, fabricate, or assemble the property, but does not include the cost of labor to cut, bend, assemble, or attach the property at the site for affixation to real estate.

(2) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from charges for telecommunications services that are subject to the tax under this act, the nontaxable

telecommunications services and other nontaxable billed services are subject to the tax under this act unless the service provider can reasonably identify charges for telecommunications services not subject to the tax under this act from its books and records that are kept in the regular course of business.

(3) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from telecommunications services that are subject to the tax under this act, a customer may not rely upon the nontaxability of those telecommunications services and other billed services unless the customer's service provider separately states the charges for nontaxable telecommunications services and other nontaxable billed services from taxable telecommunications services or the service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the service provider's books and records that are kept in the regular course of business that reasonably identify the nontaxable services.

(4) As used in this section:

(a) "Fabricate" means to modify or prepare tangible personal property for affixation or assembly.

(b) "Manufacture" means to convert or condition tangible personal property by changing the form, composition, quality, combination, or character of the property.

(c) "Manufacturer" means a person who manufactures, fabricates, or assembles tangible personal property.

205.93c Sale of telecommunications services; definitions.

Sec. 3c. (1) Except for the defined telecommunications services in section 3b and subsection (3), the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the defined telecommunications services in section 3b and subsection (3), a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

(3) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(a) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either the seller's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(b) A sale of prepaid calling service is sourced in accordance with section 20. However, for a sale of mobile telecommunications service that is a prepaid telecommunications service, the rule provided in section 20(1)(e) shall include as an option the location associated with the mobile telephone number.

(c) A sale of a private communication service is sourced as follows:

(i) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located.

(ii) Service where all customer termination points are located entirely within 1 jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

(iii) Service for segments of a channel between 2 customer channel termination points located in different jurisdictions and which segment of channel is separately charged is sourced 50% in each level of jurisdiction in which the customer channel termination points are located.

(iv) Service for segments of a channel located in more than 1 jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(4) As used in this section:

(a) “Air-to-ground radiotelephone service” means a radio service, as that term is defined in 47 CFR part 22, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(b) “Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls.

(c) “Communications channel” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(d) “Customer” means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service for purposes of this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area.

(e) “Customer channel termination point” means the location where the customer either inputs or receives the communications.

(f) “End user” means the person who utilizes the telecommunications service. In the case of an entity, “end user” means the individual who utilizes the service on behalf of the entity.

(g) “Home service provider” means the facilities-based carrier or reseller that enters into a contract with a customer for mobile telecommunications services.

(h) “Mobile telecommunications services” means commercial mobile radio services that originate and terminate in the same state or originate in 1 state and terminate in another state. Mobile telecommunications services do not include prepaid mobile telecommunications services or air-ground radiotelephone service.

(i) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. For mobile telecommunications services, place of primary use must be within the licensed service area of the home service provider.

(j) “Post-paid calling service” means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service.

(k) “Prepaid calling service” means the right to access exclusively telecommunications services, which must be paid for in advance and that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(l) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(m) “Service address” means the following:

(i) The location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(ii) If the location in subparagraph (i) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(iii) If the location in subparagraphs (i) and (ii) is not known, the service address means the location of the customer’s place of primary use.

205.94 Exemptions.

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

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, 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 immediately preceding year without regard to specific make or style according to the following schedule of 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. Property purchased for resale includes promotional merchandise transferred pursuant to a redemption offer to a person located outside this state or any packaging material, other than promotional merchandise, acquired for use in fulfilling a redemption offer or rebate to a person located outside this state.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except if 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 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. 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 does not include tangible personal property permanently affixed to and becoming a structural part of real estate.

(g) 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.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, 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, if not operated for profit, and 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 a restricted group. The tax levied does 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 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 by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

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

(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.

(j) A vessel designed 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 a vessel of 500 tons or more engaged in interstate commerce.

(k) 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.

(l) 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 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. After December 31, 1993, 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. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. 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.

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

(n) 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.

(o) A vehicle for which a special registration is secured in accordance with section 226(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

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

(q) Water when delivered through water mains, water sold in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

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

(s) 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 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 pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption of an aircraft by a domestic air carrier for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term “domestic air carrier” is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(v) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 CFR part 121, for use solely in the regularly scheduled transport of passengers.

(w) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(x) The use or consumption of services described in section 3a(a) or (c) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(y) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(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.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes 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.

205.94a Additional exemptions.

Sec. 4a. The following are exempt from the tax under this act:

(a) Rental receipts if the tangible personal property rented or leased was previously subject to 1 of the following when purchased by the lessor:

(i) This act.

(ii) The general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(b) Rental receipts if the tangible personal property rented or leased was previously taxed under a sales or use tax act of another state or a political subdivision of another state levied at a rate of 6% or more.

(c) Specific charges for technical support or for adapting or modifying prewritten computer software programs to a purchaser's needs or equipment if those charges are separately stated and identified.

(d) The sale of computer software originally designed for the exclusive use and special needs of the purchaser.

(e) The sale of a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an illustration, retouching, and mechanical or keyline instructions. This exemption does not include black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(f) The sale of oxygen for human use dispensed pursuant to a prescription.

(g) The sale of insulin for human use.

(h) A meal provided free of charge or at a reduced rate to an employee during work hours by a food service establishment licensed by the department of agriculture.

(i) The sale of diesel fuel to a person who is an interstate motor carrier for use in a qualified commercial motor vehicle.

205.94d Exemptions; food or drink from vending machines; "food and food ingredients," "prepared food," and "prepared food intended for immediate consumption" defined.

Sec. 4d. (1) The following are exempt from the tax under this act:

(a) Sales of drugs for human use that can only be legally dispensed by prescription or food or food ingredients, except prepared food intended for immediate human consumption.

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

(c) Food or tangible personal property purchased under the federal food stamp program or meals eligible to be purchased under the federal food stamp program.

(d) Fruit or vegetable seeds and fruit or vegetable plants if purchased at a place of business authorized to accept food stamps by the food and nutrition service of the

United States department of agriculture or a place of business that has made a complete and proper application for authorization to accept food stamps but has been denied authorization and provides proof of denial to the department of treasury.

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

(2) Food or drink heated or cooled mechanically, electrically, or by other artificial means to an average temperature above 75 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and sold from a vending machine, except milk, nonalcoholic beverages in a sealed container, and fresh fruit, is subject to the tax under this act. The tax due under this act on the sale of food or drink from a vending machine selling both taxable items and items exempt under this subsection shall be calculated under this act after December 31, 1994 based on 1 of the following as determined by the taxpayer:

(a) Actual gross proceeds from sales at retail.

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

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

(4) “Prepared food” means the following:

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

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

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

(5) Prepared food does not include the following:

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

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

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

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

(6) “Prepared food intended for immediate consumption” means prepared food.

205.94f Computing monthly tax payments; deductions by seller collecting tax from purchaser; disallowance of deduction; deduction for extended payment period; filing estimated returns and annual periodic reconciliations; registration under streamlined sales and use tax agreement.

Sec. 4f. (1) In computing the amount of tax payments required for any month of a seller not subject to section 6(2) who collects the tax from the purchaser under the provisions of

this act, the seller who collects the tax from a purchaser may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to the state from the purchase of tangible personal property or services during the preceding month is remitted to the department on or before the twelfth day of the month in which remittance is due, 0.75% of the tax collected at a rate of 4% for the preceding monthly period, but not to exceed \$20,000.00 of the tax collected for that month. If the tax that accrued to the state from the purchase of tangible personal property or services during the preceding month is remitted to the department after the twelfth day of the month and on or before the twentieth day of the month in which remittance is due, 0.50% of the tax collected at a rate of 4% for the preceding monthly period, but not to exceed \$15,000.00 of the tax collected for that month.

(b) The tax collected at a rate of 4% on \$150.00 of taxable purchase price for the preceding monthly period or a prorated portion of \$150.00 of the taxable purchase price for the preceding month if the seller engaged in business for less than a month.

(2) Beginning January 1, 1999, in computing the amount of tax levied under this act for any month, a seller who collects the tax from the purchaser under this act and who is subject to section 6(2) may deduct from the amount of the tax paid 0.50% of the tax due at a rate of 4%.

(3) A deduction is not allowed under this section for payments of taxes made to the department after the day the person is required to pay the tax imposed by this act pursuant to section 6.

(4) If, pursuant to section 6(3), the department prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a seller who collects the tax from the purchaser is entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1) or (2) for monthly periods.

(5) The department may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

(6) A seller registered under the streamlined sales and use tax agreement may claim a deduction under this section if provided for in the streamlined sales and use tax administration act.

205.94o Exemptions; limitation; industrial processing; definitions.

Sec. 4o. (1) The tax levied under this act does not apply to property sold to the following after March 30, 1999, subject to subsection (2):

(a) An industrial processor for use or consumption in industrial processing.

(b) A person, whether or not the person is an industrial processor, if the tangible personal property is intended for ultimate use in and is used in industrial processing by an industrial processor.

(c) A person, whether or not the person is an industrial processor, if the tangible personal property is used by that person to perform an industrial processing activity for or on behalf of an industrial processor.

(d) A person, whether or not the person is an industrial processor, if the tangible personal property is 1 of the following:

(i) A computer used in operating industrial processing equipment.

(ii) Equipment used in a computer assisted manufacturing system.

(iii) Equipment used in a computer assisted design or engineering system integral to an industrial process.

(iv) A subunit or electronic assembly comprising a component in a computer integrated industrial processing system.

(v) Computer equipment used in connection with the computer assisted production, storage, and transmission of data if the equipment would have been exempt had the data transfer been made using tapes, disks, CD-ROMs, or similar media by a company whose business includes publishing doctoral dissertations and information archiving, and that sells the majority of the company's products to nonprofit organizations exempt under section 4(1)(z).

(vi) Equipment used in the production of prewritten computer software or software modified or adapted to the user's needs or equipment by the seller, only if the software is available for sale from a seller of software on an as-is basis or as an end product without modification or adaption.

(2) The property under subsection (1) is exempt only to the extent that the property is used for the exempt purpose stated in this section. 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) Industrial processing includes the following activities:

(a) Production or assembly.

(b) Research or experimental activities.

(c) Engineering related to industrial processing.

(d) Inspection, quality control, or testing to determine whether particular units of materials or products or processes conform to specified parameters at any time before materials or products first come to rest in finished goods inventory storage.

(e) Planning, scheduling, supervision, or control of production or other exempt activities.

(f) Design, construction, or maintenance of production or other exempt machinery, equipment, and tooling.

(g) Remanufacturing.

(h) Processing of production scrap and waste up to the point it is stored for removal from the plant of origin.

(i) Recycling of used materials for ultimate sale at retail or reuse.

(j) Production material handling.

(k) Storage of in-process materials.

(4) Property that is eligible for an industrial processing exemption includes the following:

(a) Property that becomes an ingredient or component part of the finished product to be sold ultimately at retail.

(b) Machinery, equipment, tools, dies, patterns, foundations for machinery or equipment, or other processing equipment used in an industrial processing activity and in their repair and maintenance.

(c) Property that is consumed or destroyed or that loses its identity in an industrial processing activity.

(d) Tangible personal property, not permanently affixed and not becoming a structural part of real estate, that becomes a part of, or is used and consumed in installation and maintenance of, systems used for an industrial processing activity.

(e) Fuel or energy used or consumed for an industrial processing activity.

(f) Machinery, equipment, or materials used within a plant site or between plant sites operated by the same person for movement of tangible personal property in the process of production.

(g) Office equipment, including data processing equipment, used for an industrial processing activity.

(5) Property that is not eligible for an industrial processing exemption includes the following:

(a) Tangible personal property permanently affixed and becoming a structural part of real estate including building utility systems such as heating, air conditioning, ventilating, plumbing, lighting, and electrical distribution, to the point of the last transformer, switch, valve, or other device at which point usable power, water, gas, steam, or air is diverted from distribution circuits for use in industrial processing.

(b) Office equipment, including data processing equipment used for nonindustrial processing purposes.

(c) Office furniture or office supplies.

(d) An industrial processor's own product or finished good that it uses or consumes for purposes other than industrial processing.

(e) Tangible personal property used for receiving and storage of materials, supplies, parts, or components purchased by the user or consumer.

(f) Tangible personal property used for receiving or storage of natural resources extracted by the user or consumer.

(g) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways, except for a vehicle bearing a manufacturer's plate or a specially designed vehicle, together with parts, used to mix and agitate materials at a plant or job site in the concrete manufacturing process.

(h) Tangible personal property used for the preparation of food or beverages by a retailer for ultimate sale at retail through its own locations.

(i) Tangible personal property used or consumed for the preservation or maintenance of a finished good once it first comes to rest in finished goods inventory storage.

(j) Returnable shipping containers or materials, except as provided in subsection (4)(f).

(k) Tangible personal property used in the production of computer software originally designed for the exclusive use and special needs of the purchaser.

(6) Industrial processing does not include the following activities:

(a) Purchasing, receiving, or storage of raw materials.

(b) Sales, distribution, warehousing, shipping, or advertising activities.

(c) Administrative, accounting, or personnel services.

(d) Design, engineering, construction, or maintenance of real property and nonprocessing equipment.

(e) Plant security, fire prevention, or medical or hospital services.

(7) As used in this section:

(a) "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail. Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.

(b) “Industrial processor” means a person who performs the activity of converting or conditioning tangible personal property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail.

(c) “Product”, as used in subdivision (e), includes, but is not limited to, a prototype, pilot model, process, formula, invention, technique, patent, or similar property, whether intended to be used in a trade or business or to be sold, transferred, leased, or licensed.

(d) “Remanufacturing” means the activity of overhauling, retrofitting, fabricating, or repairing a product or its component parts for ultimate sale at retail.

(e) “Research or experimental activity” means activity incident to the development, discovery, or modification of a product or a product related process. Research or experimental activity also includes activity necessary for a product to satisfy a government standard or to receive government approval. Research or experimental activity does not include the following:

- (i) Ordinary testing or inspection of materials or products for quality control purposes.
- (ii) Efficiency surveys.
- (iii) Management surveys.
- (iv) Market or consumer surveys.
- (v) Advertising or promotions.
- (vi) Research in connection with literacy, historical, or similar projects.

205.95 Registration requirements; seller to collect tax from consumer; foreign corporations; dissolution or withdrawal of corporation; election of lessor on payment of taxes; registration under streamlined sales and use tax agreement.

Sec. 5. (1) Except as otherwise provided in this subsection or subsection (5), a person engaged in the business of selling tangible personal property for storage, use, or other consumption in this state shall register with the department and give the name and address of each agent operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and any other information that the department requires relevant to the enforcement of this act. However, a seller holding a sales tax license obtained under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is not required to separately register with the department under this act. Every seller shall source sales in accordance with section 20 and collect the tax imposed by this act from the consumer.

(2) The corporation, securities, and land development bureau of the department of consumer and industry services shall not issue to any foreign corporation engaged in the business of selling tangible personal property a certificate of authority to do business in this state or approve and file the proposed articles of incorporation submitted to it by any domestic corporation authorizing or permitting that corporation to conduct any business of selling tangible personal property unless the corporation submits with the application for the certificate of authority or proposed articles of incorporation an application for registration of the corporation under this act or an application for a sales tax license under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The application shall be transmitted to the department by the corporation, securities, and land development bureau.

(3) A domestic corporation or a foreign corporation authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not

due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(4) A lessor may elect to pay use tax on receipts from the rental or lease of the tangible personal property in lieu of payment of sales or use tax on the full cost of the property at the time it is acquired. For tax years that begin after December 31, 2001, in order to make a valid election under this subsection, a lessor of tangible personal property that is an aircraft shall obtain a use tax registration by the earlier of the date set for the first payment of use tax under the lease or rental agreement or 90 days after the lessor first brings the aircraft into this state.

(5) A seller registered under the streamlined sales and use tax agreement who is not otherwise subject to the tax under this act is not required to register under this section because of the registration under the streamlined sales and use tax agreement.

205.96 Use tax returns; filing; form; contents; payment of tax; remittance for certain total tax liability after subtracting tax payments; electronic funds transfer; filing other than monthly returns; accrual to state; due date.

Sec. 6. (1) Every person storing, using, or consuming tangible personal property or services, the storage, use, or consumption of which is subject to the tax imposed by this act when the tax was not paid to a seller, and every seller collecting the tax from the purchaser, unless otherwise prescribed by the department under the provisions of subsection (2) or (3), on or before the twentieth day of each calendar month shall file with the department a return for the preceding calendar month, in a form prescribed by the department, showing the price of each purchase of tangible personal property or services during the preceding month, and other information the department considers necessary for the proper administration of this act. At the same time, each person shall pay to the department the amount of tax imposed by this act with respect to the purchases covered by the return.

(2) Beginning January 1, 1999, each seller that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or after subtracting the tax credits available under section 6a of the general sales tax act, 1933 PA 167, MCL 205.56a, in the immediately preceding calendar year of \$720,000.00 or more shall remit to the department, by an electronic funds transfer method approved by the department on or before the twentieth day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Additionally, the seller shall remit to the department, by an electronic funds transfer method approved by the department on or before the last day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less.

(3) If considered necessary to insure payment of the tax or to provide a more efficient administration, the department may require and prescribe the filing of returns and payment of the tax for other than monthly periods.

(4) The tax imposed under this act shall accrue to this state on the last day of each calendar month.

(5) If a due date falls on a Saturday, Sunday, state holiday, or legal banking holiday, the taxes are due on the next succeeding business day.

205.96a Qualified athletic event; definition; repeal of section.

Sec. 6a. (1) The organizing entity of a qualified athletic event that sells corporate sponsor contracts for the event that include both taxable tangible personal property and services may exempt the sale of taxable tangible personal property or taxable services if all of the following criteria have been met:

(a) The organizing entity is exempt or is wholly owned by an entity exempt under section 501(c)(6) of the internal revenue code, 26 USC 501.

(b) The organizing entity provided both of the following to the department at least 180 days in advance of entering into the first corporate sponsor contract:

(i) Written notice of its intent to enter into corporate sponsor contracts.

(ii) An itemized schedule of the tangible personal property and services that will be provided under each corporate sponsor contract.

(c) The department has given written approval to the organizing entity.

(2) As used in this section, “qualified athletic event” means either of the following:

(a) A professional sporting competition in which individuals officially representing at least 2 countries or nations compete.

(b) A professional football competition in which teams compete in a postseason event to determine the league champion.

(3) This section is repealed effective January 1, 2007.

205.98 Direct payment authorization.

Sec. 8. (1) The department may authorize a person to assume the obligation of self-accruing and remitting use tax due on purchases or leases directly to the department under a direct payment authorization, if the following conditions are met:

(a) The authorization is to be used for the purchase or lease of tangible personal property or services.

(b) The authorization is necessary because it is either impractical at the time of acquisition to determine the manner in which the tangible personal property or services will be used or it will facilitate improved compliance with the tax laws of this state.

(c) The person requesting authorization for direct payment maintains accurate and complete records of all purchases or leases and uses of tangible personal property or services purchased pursuant to the direct payment authorization in a form acceptable to the department.

(2) The department has the authority to identify items that are not eligible for a direct payment authorization.

205.99 Personal liability of seller or certified service provider for failure to collect tax; definition.

Sec. 9. (1) If a seller or certified service provider who is required or authorized to collect the tax fails to do so, the seller or certified service provider is liable personally for the amount the seller or certified service provider failed to collect together with penalty and interest on the tax. In that case, the department has the power to make an

assessment against the seller or certified service provider, based upon any information in or that comes into the department's possession. The department shall give to the seller or certified service provider written notice of the assessment. The notice may be served upon the seller or certified service provider personally or by registered mail, addressed to the last known or business address.

(2) As used in this section, "certified service provider" means that term as defined in section 3 of the streamlined sales and use tax administration act.

205.99a Bad debt deduction.

Sec. 9a. (1) In computing the amount of tax levied under this act for any month, a seller may deduct the amount of bad debts from his or her gross sales, rentals, or services used for the computation of the tax. The amount of gross sales, rentals, or services deducted must be charged off as uncollectible on the books and records of the seller at the time the debt becomes worthless and deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and must be eligible to be deducted for federal income tax purposes. For purposes of this section, a claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return. If a consumer or other person pays all or part of a bad debt with respect to which a seller claimed a deduction under this section, the seller is liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department. Any payments made on a bad debt shall be applied proportionally first to the taxable price of the property and the tax on the property and second to any interest, service, or other charge.

(2) Any claim for a bad debt deduction under this section shall be supported by that evidence required by the department. The department shall review any change in the rate of taxation applicable to any taxable sales, rentals, or services by a seller claiming a deduction pursuant to this section and shall ensure that the deduction on any bad debt does not result in the seller claiming the deduction recovering any more or less than the taxes imposed on the sale, rental, or service that constitutes the bad debt.

(3) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, the certified service provider may claim, on behalf of the seller, any bad debt allowable to the seller and shall credit or refund that amount of bad debt allowed or refunded to the seller.

(4) If the books and records of a seller under the streamlined sales and use tax act that claims a bad debt allowance support an allocation of the bad debts among member states of that agreement, the seller may allocate the bad debts.

(5) As used in this section, "bad debt" means any portion of a debt resulting from a seller's collection of the use tax under this act on the purchase of tangible personal property or services that is not otherwise deductible or excludable and that is eligible to be claimed, or could be eligible to be claimed if the seller kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code, 26 USC 166. A bad debt does not include any of the following:

(a) Interest, finance charge, or use tax on the purchase price.

(b) Uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid.

(c) Expenses incurred in attempting to collect any account receivable or any portion of the debt recovered.

(d) Any accounts receivable that have been sold to and remain in the possession of a third party for collection.

(e) Repossessed property.

205.100 Administration of tax; conflicting provisions; rules; filing claims for refund; payment of refunds; payment of refund filed for interstate access telephone services; tax imposed under tobacco products tax act.

Sec. 10. (1) The tax imposed by this act shall be administered by the department under 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act conflict, the provisions of this act apply.

(2) Rules shall be promulgated to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) Claims for refund pursuant to the 1988 amendatory act amending section 2 shall be filed not later than March 31, 1989. The approved refunds shall be paid without interest. The department shall not pay refunds totaling more than \$1,000,000.00 in any 1 fiscal year, unless the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, is amended to impose a 1-year surcharge on the business activity of contract construction to recover the cost of the refunds.

(4) A claim for a refund pursuant to the final decision of the Michigan court of appeals in the case of GTE Sprint Communications Corp. v Michigan Department of Treasury, 179 Mich App 276, 1989, LV DEN 436 Mich 875, 1990, shall be filed not later than January 1, 1994 by a person that paid the tax under this act for interstate access telephone services for the period beginning August 1, 1988 through January 1, 1991. The approved refund shall be paid without interest. The department shall pay the refund in 12 equal installments commencing in the month that the person begins applying the refunds to the billings of its current Michigan interstate subscribers in a manner consistent with the requirements of the federal communications commission.

(5) A seller shall not separately state on an invoice, bill of sale, or other similar document given to the purchaser the tax imposed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

205.101 Refund or credit for returned tangible personal property or service; written notice.

Sec. 11. (1) If a person liable for collection of the tax under this act refunds or provides a credit for all or a portion of the amount of the purchase price paid for returned tangible personal property within the time period for returns stated in that person's refund policy or 180 days after the initial sale, whichever is sooner, that person shall also refund or provide a credit for the tax levied under this act that was added to all or that portion of the amount of the purchase price paid that is refunded or credited.

(2) If a person liable for collection of the tax under this act refunds or provides a credit for all or a portion of an amount paid for a service taxable under this act within the time period for returns stated in that person's refund policy or 180 days after the initial sale, whichever is sooner, that person shall also refund or provide a credit for the tax paid under this act on all or that portion of the amount paid for services that is refunded or credited.

(3) A cause of action against a seller for overcollected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. The purchaser shall provide in the notice sufficient information to determine the validity of the request. In matters relating to the request, a seller is presumed to have a reasonable business practice if in the collection of sales and use tax, the seller has a certified service provider or a system, including a proprietary system, certified by the department and has remitted to this state all taxes collected less any deductions, credits, or collection allowances.

205.102 MPU exemption.

Sec. 12. (1) A business purchaser other than a holder of a direct pay permit under section 8 that, at the time of its purchase of electronically delivered computer software, knows that the electronically delivered computer software will be concurrently available for use in more than 1 taxing jurisdiction shall deliver to the seller at the time of purchase an MPU exemption form, which shall be prescribed by and available from the department.

(2) Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser is then obligated to pay the applicable tax on a direct pay basis.

(3) A purchaser who delivers an MPU exemption form may use any reasonable, consistent, and uniform method of apportionment of the tax supported by the purchaser's business records as they exist at the time of consummation of the sale.

(4) The MPU exemption form remains in effect for all subsequent sales of electronically delivered computer software by the seller to the purchaser until revoked in writing. However, the apportionment may change based on the business records as they exist at the time of each subsequent sale.

(5) A business purchaser that is a holder of a direct pay permit is not required to deliver an MPU exemption form to the seller but shall apportion the tax on electronically delivered computer software using any reasonable, consistent, and uniform method supported by the purchaser's business records as they exist at the time of consummation of the sale.

(6) As used in this section, "MPU exemption form" means a multiple points of use form.

205.103 Direct mail form.

Sec. 13. (1) A purchaser of direct mail other than a holder of a direct pay permit under section 8 shall provide to the seller at the time of purchase either a direct mail form as prescribed by the department or information indicating the taxing jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of the direct mail form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser is then obligated to pay the applicable tax on a direct pay basis.

(3) A direct mail form remains in effect for all subsequent sales of direct mail by the seller to the purchaser until revoked in writing.

(4) Upon receipt of information from the purchaser indicating the taxing jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to that delivery information. In the absence of bad faith, the seller is relieved of any further obligation to collect the tax if the seller collected the tax using the delivery information provided by the purchaser.

(5) If the purchaser does not have a direct pay permit and does not provide the seller with a direct mail form or delivery information as required in subsection (1), the seller shall collect the tax in the same manner as provided in section 19. Nothing in this subsection limits a purchaser's obligation for the tax under this act.

(6) A purchaser who provides the seller with documentation of a direct pay permit is not required to provide a direct mail form or delivery information.

205.104 Records to be kept; sale to unlicensed person; failure to file report or maintain records; assessment; effect of streamlined sales and use tax agreement.

Sec. 14. (1) A person in the business of selling tangible personal property and liable for any tax imposed under this act shall keep accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading, and all pertinent documents in a form the department requires. If an exemption from this tax is claimed by reason of any of the exemptions or deductions granted under this act, a record shall be kept of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the use to be made of the article, and the amount of the sale, and if that person has a sales tax license issued under the provisions of the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, that number shall also be included. Any person knowingly making a sale of tangible personal property for the purpose of resale at retail to another person not licensed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is liable for the tax imposed by this act unless the transaction is exempt under the provisions of section 4h. These records must be kept for a period of 4 years after the tax imposed under this act to which the records apply is due or as otherwise provided by law. If the department considers it necessary, the department may require any person, by notice served upon that person, to make a return, render under oath certain statements, or keep certain records the department considers sufficient to show whether or not that person is liable for tax under this act. If the taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department may assess the amount of the tax due from the taxpayer based on information that is available or that may become available to the department. That assessment shall be considered prima facie correct for the purpose of this act and the burden of proof of refuting the assessment shall be upon the taxpayer.

(2) This section does not apply if this state becomes a member of the streamlined sales and use tax agreement.

205.104a Inventory and records; maintenance; preservation; tax liability; failure to file return or preserve records; tax assessment; blanket exemption; effect of streamlined sales and use tax agreement.

Sec. 14a. (1) A person in the business of selling tangible personal property and liable for any tax under this act shall keep accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading, and all pertinent documents in a form the department requires. If an exemption from use tax is claimed by a person because the sale is for resale at retail, a record shall be kept of the sales tax license number if the person has a sales tax license. These records shall be retained for a period of 4 years after the tax imposed under this act to which the records apply is due or as otherwise provided by law.

(2) If the department considers it necessary, the department may require a person, by notice served upon that person, to make a return, render under oath certain statements, or keep certain records the department considers sufficient to show whether or not that person is liable for the tax under this act.

(3) A person knowingly making a sale of tangible personal property for the purpose of resale at retail to another person not licensed under this act is liable for the tax imposed under this act unless the transaction is exempt under the provisions of section 4i.

(4) If a taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department may assess the amount of the tax due from the taxpayer based on information that is available or that may become available to the department. That assessment is considered prima facie correct for the purpose of this act and the burden of proof of refuting the assessment is upon the taxpayer.

(5) For purposes of this act, exemption certificate includes a blanket exemption certificate on a form prescribed by the department that covers all exempt transfers between the taxpayer and the buyer for a period of 4 years or for a period of less than 4 years as stated on the blanket exemption certificate if that period is agreed to by the buyer and taxpayer.

(6) This section applies when this state is a member state of the streamlined sales and use tax agreement.

205.104b Exemption claimed by purchaser.

Sec. 14b. (1) If an exemption from the tax under this act is claimed, the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of the purchase or at a later date. The seller shall obtain the same information for a claimed exemption regardless of the medium in which the transaction occurred.

(2) A seller shall use a standard format for claiming an exemption electronically as adopted by the governing board under the streamlined sales and use tax agreement.

(3) A purchaser is not required to provide a signature to claim an exemption under this act unless a paper exemption form is used.

(4) A seller shall maintain a proper record of all exempt transactions and shall provide them when requested by the department.

(5) A seller who complies with the requirements of this section is not liable for the tax under this act if a purchaser improperly claims an exemption. A purchaser who improperly claims an exemption is liable for the tax due under this act. This subsection does not apply if a seller fraudulently fails to collect the tax or solicits a purchaser to make an improper claim for exemption.

205.107 Computation of tax amount; rounding up to whole cent.

Sec. 17. Beginning not later than January 1, 2006, in determining the amount of the tax under this act, the seller shall compute the tax to the third decimal place and round up to a whole cent when the third decimal place is greater than 4 or round down to a whole cent when the third decimal place is 4 or less.

205.109 Collection or payment of tax; benefit to state.

Sec. 19. The tax collected by the seller from the consumer or lessee under this act is for the benefit of this state, and a person other than this state shall not derive a benefit from the collection or payment of this tax.

205.110 Sourcing requirements.

Sec. 20. (1) For sourcing a sale subject to tax under this act, the following apply:

(a) If a product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) If a product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where the product is received by the purchaser or the purchaser's designee, including the location indicated by instructions for delivery to the purchaser, known to the seller.

(c) If subdivision (a) or (b) does not apply, the sale is sourced to the location indicated by an address for the purchaser available from the seller's business records maintained in the ordinary course of the seller's business, provided use of the address does not constitute bad faith.

(d) If subdivisions (a) through (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained at the completion of the sale, including the address of the purchaser's payment instrument if no other address is available, provided use of the address does not constitute bad faith.

(e) If subdivisions (a) through (d) do not apply or the seller has insufficient information to apply subdivisions (a) through (d), the sale will be sourced to the location indicated by the address from which the tangible personal property was shipped or from which the computer software delivered electronically was first available for transmission by the seller.

(2) For sourcing the lease or rental of tangible personal property, other than property included in subsection (3) or (4), subject to tax under this act, the following apply:

(a) For a lease or rental requiring recurring periodic payments, the first payment is sourced in the same manner provided for a sale in subsection (1). Subsequent payments shall be sourced to the primary property location for each period covered by the payment as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at different locations such as business property that accompanies employees on business trips or service calls.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a sale in subsection (1).

(3) For sourcing the lease or rental of motor vehicles, trailers, semitrailers, or aircraft that are not transportation equipment, the following apply:

(a) For a lease or rental requiring recurring periodic payments, each payment is sourced to the primary property location as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at a different location.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a sale in subsection (1).

(4) The lease or rental of transportation equipment shall be sourced in the same manner provided for a sale in subsection (1).

(5) Subsections (2) and (3) do not affect the imposition or computation of the tax under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(6) As used in this section:

(a) “Receive” and “receipt” mean 1 or more of the following but exclude possession by a shipping company on behalf of the purchaser:

(i) Taking possession of tangible personal property.

(ii) Making first use of services.

(b) “Transportation equipment” means 1 or more of the following:

(i) Locomotives and railcars utilized for the carriage of persons or property in interstate commerce.

(ii) Trucks and truck-tractors with a gross vehicle weight rating of 10,001 pounds or greater, trailers, semitrailers, or passenger buses, which are registered through the international registration plan and operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(iii) Aircraft operated by air carriers authorized and certificated by the United States department of transportation or other federal or foreign authority to transport air cargo or passengers in interstate or foreign commerce.

(iv) Containers designed for use on or component parts attached or secured to the equipment included in subparagraphs (i) to (iii).

(7) A person may deviate from the sourcing requirements under this section as provided in section 12 or 13.

Repeal of MCL 205.94b, 205.94c, 205.94e, 205.94r, and 205.94v.

Enacting section 1. Sections 4b, 4c, 4e, 4r, and 4v of the use tax act, 1937 PA 94, MCL 205.94b, 205.94c, 205.94e, 205.94r, and 205.94v, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect September 1, 2004.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 5503.

(b) House Bill No. 5504.

(c) House Bill No. 5505.

This act is ordered to take immediate effect.

Approved June 28, 2004.

Filed with Secretary of State June 28, 2004.

Compiler's note: The bills referred to in enacting section 3 were enacted into law as follows:

House Bill No. 5503 was filed with the Secretary of State June 28, 2004, and became P.A. 2004, No. 173, Eff. Sept. 1, 2004.

House Bill No. 5504 was filed with the Secretary of State June 28, 2004, and became P.A. 2004, No. 174, Eff. July 1, 2004.

House Bill No. 5505 was filed with the Secretary of State June 28, 2004, and became P.A. 2004, No. 175, Eff. Sept. 1, 2004.

[No. 173]**(HB 5503)**

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 1, 2, 2a, 3, 4, 4a, 4e, 4f, 4g, 4i, 4j, 4k, 4m, 4o, 4p, 4q, 4r, 4s, 4t, 4u, 4w, 4x, 5b, 6, 8, 9, 10, 17, and 23 (MCL 205.51, 205.52, 205.52a, 205.53, 205.54, 205.54a, 205.54e, 205.54f, 205.54g, 205.54i, 205.54j, 205.54k, 205.54m, 205.54o, 205.54p, 205.54q, 205.54r, 205.54s, 205.54t, 205.54u, 205.54w, 205.54x, 205.55b, 205.56, 205.58, 205.59, 205.60, 205.67, and 205.73), section 1 as amended by 2000 PA 390, sections 2 and 23 as amended by 1993 PA 325, section 2a as added by 1984 PA 228, section 3 as amended by 2002 PA 457, section 4 as amended by 1998 PA 267, sections 4a, 4j, and 4q as amended and sections 4r, 4t, 4u, and 4w as added by 1999 PA 116, section 4g as amended by 2000 PA 417, section 4i as added by 1982 PA 23, section 4k as added by 1986 PA 42, section 4m as added by 1993 PA 238, section 4o as added by 1994 PA 156, section 4p as added by 1998 PA 274, section 4s as added by 1999 PA 105, section 4x as amended by 2001 PA 40, section 5b as added by 2002 PA 510, section 6 as amended by 1998 PA 453, section 9 as amended by 1998 PA 365, section 10 as added by 2000 PA 149, and section 17 as amended by 2001 PA 102, and by adding sections 1a, 4d, 4h, 6b, 11, 12, 18, 19, 20, and 21; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

205.51 Definitions; unlicensed person as agent of dealer, distributor, supervisor, or employer; regarding dealer, distributor, supervisor, or employer as making sales at retail prices.

Sec. 1. (1) As used in this act:

(a) “Person” means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and includes the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) “Sale at retail” or “retail sale” means a sale, lease, or rental of tangible personal property for any purpose other than for resale, sublease, or subrent.

(c) “Gross proceeds” means sales price.

(d) “Sales price” means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to sales tax. Sales price includes the following subparagraphs (i) through (vi) and excludes subparagraphs (vii) through (viii):

(i) Seller’s cost of the property sold.

(ii) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(iii) Charges by the seller for any services necessary to complete the sale, other than the following:

(A) An amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.

(B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.

(iv) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(v) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(vi) Credit for any trade-in.

(vii) Interest, financing, or carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(viii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(e) “Business” includes an activity engaged in by a person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect.

(f) “Tax year” or “taxable year” means the fiscal year of the state or the taxpayer’s fiscal year if permission is obtained by the taxpayer from the department to use the taxpayer’s fiscal year as the tax period instead.

(g) “Department” means the department of treasury.

(h) “Taxpayer” means a person subject to a tax under this act.

(i) “Tax” includes a tax, interest, or penalty levied under this act.

(j) “Textiles” means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillow cases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(2) If the department determines that it is necessary for the efficient administration of this act to regard an unlicensed person, including a salesperson, representative, peddler, or canvasser as the agent of the dealer, distributor, supervisor, or employer under whom the unlicensed person operates or from whom the unlicensed person obtains the tangible personal property sold by the unlicensed person, irrespective of whether the unlicensed person is making sales on the unlicensed person’s own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so regard the unlicensed person and may regard the dealer, distributor, supervisor, or employer as making sales at retail at the retail price for the purposes of this act.

205.51a Additional definitions.

Sec. 1a. As used in this act:

(a) “Alcoholic beverage” means a beverage suitable for human consumption that contains 1/2 of 1% or more of alcohol by volume.

(b) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(c) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(d) “Delivered electronically” means delivered from the seller to the purchaser by means other than tangible storage media.

(e) “Delivery charges” means charges by the seller for preparation and delivery to a location designated by the purchaser of tangible personal property or services. Delivery charges include, but are not limited to, transportation, shipping, postage, handling, crating, and packing.

(f) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that is all of the following:

(i) Required to be labeled as a dietary supplement identifiable by the “supplemental facts” box found on the label as required by 21 CFR 101.36.

(ii) Contains 1 or more of the following dietary ingredients:

(A) A vitamin.

(B) A mineral.

(C) An herb or other botanical.

(D) An amino acid.

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient listed in sub-subparagraphs (A) through (E).

(iii) Intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in 1 of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

(g) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients, including tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material, but not including multiple items of printed material delivered to a single address.

(h) “Drug” means a compound, substance, or preparation, or any component of a compound, substance, or preparation, other than food or food ingredients, dietary supplements, or alcoholic beverages, intended for human use that is 1 or more of the following:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or in any of their supplements.

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(iii) Intended to affect the structure or any function of the body.

(i) “Durable medical equipment” means equipment for home use, other than mobility enhancing equipment, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that does all of the following:

(i) Can withstand repeated use.

(ii) Is primarily and customarily used to serve a medical purpose.

(iii) Is not useful generally to a person in the absence of illness or injury.

(iv) Is not worn in or on the body.

(j) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. This definition applies only to leases and rentals entered into after the effective date of the amendatory act that added this section and has no retroactive impact on leases and rentals that existed on that date. Lease or rental does not include the following:

(i) A transfer of possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(ii) A transfer of possession or control of tangible personal property under an agreement requiring transfer of title upon completion of the required payments and payment of an option price that does not exceed \$100.00 or 1% of the total required payments, whichever is greater.

(iii) The provision of tangible personal property along with an operator for a fixed or indeterminate period of time, where that operator is necessary for the equipment to perform as designed. To be necessary, an operator must do more than maintain, inspect, or set up the tangible personal property.

(iv) An agreement covering motor vehicles or trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in section 7701(h)(1) of the internal revenue code, 26 USC 7701.

(l) “Mobility enhancing equipment” means equipment, other than durable medical equipment or a motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that is all of the following:

(i) Primarily and customarily used to provide or increase the ability to move from 1 place to another and is appropriate for use at home or on a motor vehicle.

(ii) Not generally used by a person with normal mobility.

(m) “Prescription” means an order, formula, or recipe, issued in any form of oral, written, electronic, or other means of transmission by a licensed physician or other health professional as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(n) “Prewritten computer software” means computer software, including prewritten upgrades, that is delivered by any means and that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Prewritten computer software includes the following:

(i) Any combination of 2 or more prewritten computer software programs or portions of prewritten computer software programs.

(ii) Computer software designed and developed by the author or other creator to the specifications of a specific purchaser if it is sold to a person other than that specific purchaser.

(iii) The modification or enhancement of prewritten computer software or portions of prewritten computer software where the modification or enhancement is designed and developed to the specifications of a specific purchaser unless there is a reasonable, separately stated charge or an invoice or other statement of the price is given to the purchaser for the modification or enhancement. If a person other than the original author or creator modifies or enhances prewritten computer software, that person is considered to be the author or creator of only that person's modifications or enhancements.

(o) "Prosthetic device" means a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed pursuant to a prescription, including repair or replacement parts for that device, worn on or in the body to do 1 or more of the following:

- (i) Artificially replace a missing portion of the body.
- (ii) Prevent or correct a physical deformity or malfunction of the body.
- (iii) Support a weak or deformed portion of the body.

(p) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

(q) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

205.52 Sales tax; rate; additional applicability; separate books required; penalty; tax as personal obligation of taxpayer; exemption.

Sec. 2. (1) Except as provided in section 2a, there is levied upon and there shall be collected from all persons engaged in the business of making sales at retail, by which ownership of tangible personal property is transferred for consideration, an annual tax for the privilege of engaging in that business equal to 6% of the gross proceeds of the business, plus the penalty and interest if applicable as provided by law, less deductions allowed by this act.

(2) The tax under subsection (1) also applies to the following:

(a) The transmission and distribution of electricity, whether the electricity is purchased from the delivering utility or from another provider, if the sale is made to the consumer or user of the electricity for consumption or use rather than for resale.

(b) The sale of a prepaid telephone calling card or a prepaid authorization number for telephone use, rather than for resale, including the reauthorization of a prepaid telephone calling card or a prepaid authorization number.

(c) A conditional sale, installment lease sale, or other transfer of property, if title is retained as security for the purchase but is intended to be transferred later.

(3) Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to 6% of the entire gross proceeds of both or all of his or her businesses. The taxes levied by this section are a personal obligation of the taxpayer.

(4) A meal provided free of charge or at a reduced rate to an employee during work hours by a food service establishment licensed by the Michigan department of agriculture for the convenience of the employer is not considered transferred for consideration.

205.52a Reduction of tax on vehicle for which special registration secured; limitation; certification.

Sec. 2a. (1) For a sale at retail to a person of a vehicle for which a special registration is secured pursuant to section 226(9) of the Michigan vehicle code, 1949 PA 300, MCL 257.226, the tax imposed under this act shall be reduced by the sum of the following amounts:

(a) The use tax imposed on the vehicle by the state to which the vehicle was removed and in which it is registered.

(b) The amount obtained, even if negative, by subtracting the sales tax that would have been imposed on the vehicle by the state to which the vehicle was removed and in which it is registered if the vehicle had been purchased in that state, from the tax otherwise due under this act.

(2) The reduction in the tax made pursuant to subsection (1) shall not exceed the tax otherwise due under this act.

(3) The person purchasing the vehicle shall furnish to the seller a certification, on a form prescribed by the department, containing the name, address, and signature of the purchaser, a statement indicating the vehicle shall be primarily used, stored, and registered outside of this state, and the name of the jurisdiction in which the vehicle shall be registered.

205.53 License required to engage in business for which privilege tax imposed; application; fee; bond or deposit; renewal; exemptions; suspension and restoration of license; violation as misdemeanor; penalty; registration under streamlined sales and use tax agreement.

Sec. 3. (1) Subject to subsection (4), if a person engages or continues in a business for which a privilege tax is imposed by this act, the person shall, under rules the department prescribes, apply for and obtain from the department a license to engage in and to conduct that business for the current tax year. If the department considers it necessary in order to secure the collection of the tax or if an applicant taxpayer has at any time failed, refused, or neglected to pay any tax or interest or penalty upon a tax or has attempted to evade the payment of any tax or interest or penalty upon a tax by means of petition in bankruptcy, or if the applicant taxpayer is a corporation and the department has reason to believe that the management or control of the corporation is under persons who have failed to pay any tax or interest or penalty upon a tax under this act, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than \$1,000.00 nor more than \$25,000.00. The surety bond shall be conditioned that the applicant or taxpayer shall comply with this act and shall promptly file true reports and pay the taxes, interest, and penalties provided for or required by this act. The bonds shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in an amount the department determines to guarantee the payment of the tax, interest, and penalty and compliance with this act. However, the amount determined by the department shall not exceed the estimated tax payable during a 1-year period. The applicant or taxpayer shall be licensed to engage in and conduct the business. The department may require the applicant or taxpayer to furnish any additional bond that it considers necessary within the limits in this section, after giving a 30-day notice in writing. The license shall be renewed annually if the taxpayer pays the tax accrued to this state under this act. A person shall not engage

or continue in a business taxable under this act without securing a license. A person, firm, or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act is not required to have a license.

(2) The state treasurer or his or her designee, after notice and hearing, may suspend the license of a person who violates or fails to comply with this act or a rule promulgated by the department under this act. The state treasurer or his or her designee may restore licenses after suspension. If a person engages in business taxable under this act while his or her license is in suspension, the tax imposed under this act is imposed and payable with respect to that business.

(3) A person who engages in any business in this state that is taxable under this act and who fails to secure from the department a license to engage in that business or who continues to engage in business after the license has expired or was suspended by the state treasurer or his or her designee is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

(4) A seller registered under the streamlined sales and use tax agreement who is not otherwise obligated to obtain a sales tax license in this state is not required to obtain a sales tax license because of that registration.

205.54 Deductions; filing estimated returns and annual periodic reconciliations; registration under streamlined sales and use tax agreement.

Sec. 4. (1) In computing the amount of tax levied under this act for any month, a taxpayer not subject to section 6(2) may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department on or before the twelfth day of the month in which remittance is due, 0.75% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed \$20,000.00 of the tax due for that month. If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department after the twelfth day and on or before the twentieth day of the month in which remittance is due, 0.50% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed \$15,000.00 of the tax due for that month.

(b) The tax at a rate of 4% due on \$150.00 of taxable gross proceeds for the preceding monthly period, or a prorated portion of \$150.00 of the taxable gross proceeds for the preceding month if the taxpayer engaged in business for less than a month.

(2) Beginning January 1, 1999, in computing the amount of tax levied under this act for any month, a taxpayer who is subject to section 6(2) may deduct from the amount of the tax paid 0.50% of the tax due at a rate of 4%.

(3) A deduction is not allowed under this section for payments of taxes made to the department after the day the taxpayer is required to pay, pursuant to section 6, the tax imposed by this act.

(4) If, pursuant to section 6(4), the department prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a taxpayer is entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1) or (2) for monthly periods.

(5) The department may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

(6) A seller registered under the streamlined sales and use tax agreement may claim a deduction under this section if provided for in the streamlined sales and use tax administration act.

205.54a Sales excluded from tax; limitation.

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 persons 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, 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 by the department of consumer and industry services pursuant to 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 persons 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) A sale of tangible personal property to persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth; or in the direct gathering of fish, by net, line, or otherwise only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. This exemption 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 also includes grain drying equipment and natural or propane gas used to fuel that equipment for agricultural purposes. This exemption does not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human

consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate.

(f) 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. A claim for a refund for taxes paid before January 1, 1999, under this subdivision shall be made before June 30, 1999. 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.

(g) 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.

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

(i) 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.

(j) 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.

(k) 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.

(l) 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 pursuant to 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 pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(m) The sale or lease of the following to an industrial laundry after December 31, 1997:

(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.

(n) 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.

(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.

205.54d Additional sales excluded from tax.

Sec. 4d. The following are exempt from the tax under this act:

(a) The sale of tangible personal property to a person who is a lessor licensed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and whose rental receipts are taxed or specifically exempt under the use tax act.

(b) The sale of a vehicle acquired for lending or leasing to a public or parochial school for use in a course in driver education.

(c) The sale of a vehicle purchased by a public or parochial school if that vehicle is certified for driver education and is not reassigned for personal use by the school's administrative personnel.

(d) The sale of water through water mains, the sale of water delivered in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

(e) The sale of tangible personal property to a person for demonstration purposes. For a dealer selling a new car or truck, the exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding year without regard to specific make or style in accordance with the following schedule of 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 a calendar year for demonstration purposes.

(f) Specific charges for technical support or for adapting or modifying prewritten computer software programs to a purchaser's needs or equipment if those charges are separately stated and identified.

(g) The sale of computer software originally designed for the exclusive use and special needs of the purchaser.

(h) The sale of a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an

illustration, retouching, and mechanical or keyline instructions. This exemption does not include black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(i) A sale made outside of the ordinary course of the seller's business.

(j) An isolated transaction by a person not licensed or required to be licensed under this act, in which tangible personal property is offered for sale, sold, or transferred and delivered by the owner.

(k) The sale of oxygen for human use dispensed pursuant to a prescription.

(l) The sale of insulin for human use.

205.54e Sales of vehicles to members of armed forces.

Sec. 4e. A sale of a vehicle from a Michigan retailer for titling and registration in his or her home state of residency or domicile to a nonresident person of Michigan actually serving in the United States armed forces is exempt from the tax under this act. At the time of sale or purchase, the purchaser shall provide a sworn statement to the vendor from the immediate commanding officer of the purchaser certifying that the purchaser claiming the exemption is a member of the armed forces on active duty and furnishing the recorded domiciliary or home address of the purchaser.

205.54f Commissions paid to entities exempt under MCL 205.54a; exemptions.

Sec. 4f. Commissions paid to an entity exempt under the provisions of section 4a from sales of tangible personal property dispensed through a nonelectrically operated vending machine containing unsorted confections, nuts, or merchandise which, upon insertion of a coin dispenses the same in substantially equal portions, at random and without selection by the customer, and where the consideration is 10 cents or less, are exempt from the tax under this act.

205.54g Sales exempt from tax; tax on sale of food or drink from vending machine; definitions.

Sec. 4g. (1) The following are exempt from the tax under this act:

(a) Sales of drugs for human use that can only be legally dispensed by prescription or food or food ingredients, except prepared food intended for immediate human consumption.

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

(c) Food or tangible personal property purchased under the federal food stamp program or meals eligible to be purchased under the federal food stamp program.

(d) Fruit or vegetable seeds and fruit or vegetable plants if purchased at a place of business authorized to accept food stamps by the food and nutrition service of the United States department of agriculture or a place of business that has made a complete and proper application for authorization to accept food stamps but has been denied authorization and provides proof of denial to the department of treasury.

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

(2) Food or drink heated or cooled mechanically, electrically, or by other artificial means to an average temperature above 75 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and sold from a vending machine, except milk, nonalcoholic beverages in a sealed container, and fresh fruit, is subject to the tax under this act. The

tax due under this act on the sale of food or drink from a vending machine selling both taxable items and items exempt under this subsection shall be calculated under this act based on 1 of the following as determined by the taxpayer:

(a) Actual gross proceeds from sales at retail.

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

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

(4) “Prepared food” means the following:

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

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

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

(5) Prepared food does not include the following:

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

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

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

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

(6) “Prepared food intended for immediate consumption” means prepared food.

205.54h Exemptions.

Sec. 4h. Sales to the United States, its unincorporated agencies and instrumentalities, any 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 and branches, and this state or its departments and institutions or any of its political subdivisions are exempt from the tax under this act.

205.54i Bad debt; deduction; amount; payment of bad debt; liability; evidence required to support claim for deduction; change in tax rate; review; taxpayer under streamlined sales and use tax agreement.

Sec. 4i. (1) As used in this section, “bad debt” means any portion of a debt that is related to a sale at retail taxable under this act for which gross proceeds are not otherwise deductible or excludable and that is eligible to be claimed, or could be eligible to be claimed if the taxpayer kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code, 26 USC 166. A bad debt shall not include any finance charge, interest, or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is

paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, any accounts receivable that have been sold to and remain in the possession of a third party for collection, and repossessed property.

(2) In computing the amount of tax levied under this act for any month, a taxpayer may deduct the amount of bad debts from his or her gross proceeds used for the computation of the tax. The amount of gross proceeds deducted must be charged off as uncollectible on the books and records of the taxpayer at the time the debt becomes worthless and deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and must be eligible to be deducted for federal income tax purposes. For purposes of this section, a claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return. If a consumer or other person pays all or part of a bad debt with respect to which a taxpayer claimed a deduction under this section, the taxpayer is liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department. Any payments made on a bad debt shall be applied proportionally first to the taxable price of the property and the tax on the property and second to any interest, service, or other charge.

(3) Any claim for a bad debt deduction under this section shall be supported by that evidence required by the department. The department shall review any change in the rate of taxation applicable to any taxable sales by a taxpayer claiming a deduction pursuant to this section and shall ensure that the deduction on any bad debt does not result in the taxpayer claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(4) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, the certified service provider may claim, on behalf of the taxpayer, any bad debt allowable to the taxpayer and shall credit or refund that amount of bad debt allowed or refunded to the taxpayer.

(5) If the books and records of a taxpayer under the streamlined sales and use tax agreement that claims a bad debt allowance support an allocation of the bad debts among member states of that agreement, the taxpayer may allocate the bad debts.

205.54j Sale of tangible personal property for use in qualified business activity of purchaser; definition.

Sec. 4j. (1) A sale of tangible personal property used in a qualified business activity of the purchaser is exempt from the tax under this act.

(2) As used in this section, "qualified business activity" means that term as defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

205.54k Drop shipments.

Sec. 4k. (1) The sale of tangible personal property that is part of a drop shipment is exempt from the tax under this act if the taxpayer complies with the requirements of subsection (3).

(2) As used in this section, "drop shipment" means the direct delivery of tangible personal property to a purchaser in Michigan by a person who has sold the property to another person not licensed under this act but possessing a resale or exemption certificate or other written evidence of exemption authorized by another state, for resale to the Michigan purchaser.

(3) For each transaction for which an exemption is claimed under subsection (1), the taxpayer shall provide, but not more frequently than annually, any information required by the board under the streamlined sales and use tax agreement in addition to the following information in a form prescribed by the department to the department:

(a) The name, address, and, if readily available, the federal taxpayer identification number of the person to whom the property is sold for resale.

(b) The name, address, and, if readily available, the federal taxpayer identification number of the person to whom the property is shipped in Michigan.

(4) A sale at retail includes a drop shipment.

205.54m Sale of rail freight or passenger cars, locomotives or other rolling stock, roadway machines and certain work equipment; exemption.

Sec. 4m. A sale of rail freight or passenger cars, locomotives or other rolling stock, roadway machines and work equipment primarily of a flanged wheel nature, accessories, attachments including parts and materials used for repair, lubricants, or fuel, used in rail operations is exempt from the tax under this act. This exemption does not include vehicles licensed and titled for use on public highways.

205.54o School, church, hospital, parent cooperative preschool, or nonprofit organization; sales of tangible personal property for fund-raising purposes; exemption; "school" defined.

Sec. 4o. (1) The sale of tangible personal property for fund-raising purposes by a school, church, hospital, parent cooperative preschool, or nonprofit organization that has a tax exempt status under section 4q(1)(a) or (b) and that has aggregate sales at retail in the calendar year of less than \$5,000.00 are exempt from the tax under this act.

(2) A club, association, auxiliary, or other organization affiliated with a school, church, hospital, parent cooperative preschool, or nonprofit organization with a tax exempt status under section 4q(1)(a) or (b) is not considered a separate person for purposes of this exemption. As used in this section, "school" means each elementary, middle, junior, or high school site within a local school district that represents a district attendance area as established by the board of the local school district.

205.54p Property offered to or made structural part of sanctuary; exemption; "regularly organized church or house of religious worship" and "sanctuary" defined.

Sec. 4p. (1) A sale of tangible personal property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others if the property is to be affixed to or made a structural part of a sanctuary is exempt from the tax under this act.

(2) As used in this section:

(a) "Regularly organized church or house of religious worship" means a religious organization qualified under section 501(c)(3) of the internal revenue code, 26 USC 501.

(b) "Sanctuary" means only that portion of a building that is owned and occupied by a regularly organized church or house of religious worship that is used predominantly and regularly for public worship. Sanctuary includes a sanctuary to be constructed that will be owned and occupied by a regularly organized church or house of religious worship and that will be used predominantly and regularly for public worship.