

**SUBSTITUTE FOR  
SENATE BILL NO. 168**

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 1 (MCL 205.51), as amended by 2004 PA 173.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

10           (b) "Sale at retail" or "retail sale" means a sale, lease, or  
11 rental of tangible personal property for any purpose other than for

1 resale, sublease, or subrent.

2 (c) "Gross proceeds" means sales price. BEGINNING JANUARY 1,  
3 2006 THROUGH DECEMBER 31, 2008, FOR THE PURPOSE OF A CHARITABLE  
4 AUCTION HELD BY A TAXPAYER WITH A TAX-EXEMPT STATUS UNDER SECTION  
5 4Q(1)(B), GROSS PROCEEDS MEANS THE WINNING BID PRICE FOR THE  
6 AUCTION ITEM OR, AT THE OPTION OF THE TAXPAYER, IF THE FAIR MARKET  
7 VALUE IS LESS THAN THE WINNING BID PRICE AND THE TAXPAYER PROVIDES  
8 A CERTIFICATION OF FAIR MARKET VALUE SUPPLIED BY THE DONOR ON A  
9 FORM PRESCRIBED BY THE DEPARTMENT, THE FAIR MARKET VALUE OF THE  
10 AUCTION ITEM.

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

18 (i) Seller's cost of the property sold.

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

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

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

1 billed to the customer.

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

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

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

11 (vi) Credit for any trade-in.

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

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

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

22 (f) "Tax year" or "taxable year" means the fiscal year of the  
23 state or the taxpayer's fiscal year if permission is obtained by  
24 the taxpayer from the department to use the taxpayer's fiscal year  
25 as the tax period instead.

26 (g) "Department" means the department of treasury.

27 (h) "Taxpayer" means a person subject to a tax under this act.

1 (i) "Tax" includes a tax, interest, or penalty levied under  
2 this act.

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

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