

SUBSTITUTE FOR
SENATE BILL NO. 1100

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 18 (MCL 205.68), as amended by 2014 PA 108.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18. (1) A person liable for any tax imposed under this
2 act shall keep in a paper, electronic, or digital format an
3 accurate and complete beginning and annual inventory and purchase
4 records of additions to inventory, complete daily sales records,
5 receipts, invoices, bills of lading, and all pertinent documents in
6 a form the department requires. **A PERSON SHALL NOT DESTROY OR ALTER**
7 **ELECTRONIC RECORDS REQUIRED TO BE MAINTAINED UNDER THIS ACT OR**
8 **UNDER 1941 PA 122, MCL 205.1 TO MCL 205.31.** If an exemption from
9 the tax under this act is claimed by a person because the sale is
10 for resale at retail, a record shall be kept of the sales tax

1 license number if the person has a sales tax license. These records
2 shall be retained for a period of 4 years after the tax imposed
3 under this act to which the records apply is due or as otherwise
4 provided by law.

5 (2) BEGINNING JANUARY 1, 2015 THROUGH DECEMBER 31, 2017, THE
6 DEPARTMENT MAY REQUIRE NOT MORE THAN 1,000 PERSONS SUBJECT TO THE
7 TAX UNDER THIS ACT TO MAINTAIN AN ANTI-SALES SUPPRESSION DEVICE ON
8 ITS CASH REGISTER, ELECTRONIC CASH REGISTER, OR ANY OTHER POINT-OF-
9 SALE SYSTEM IN A MANNER PRESCRIBED BY THE DEPARTMENT.

10 (3) ~~(2)~~—If the department considers it necessary, the
11 department may require a person, by notice served upon that person,
12 to make a return, render under oath certain statements, or keep
13 certain records the department considers sufficient to show whether
14 or not that person is liable for the tax under this act.

15 (4) ~~(3)~~—A person knowingly making a sale of tangible personal
16 property for the purpose of resale at retail to another person not
17 licensed under this act is liable for the tax under this act unless
18 the transaction is exempt under ~~the provisions of~~ section 4k.

19 (5) ~~(4)~~—If the taxpayer fails to file a return or to maintain
20 or preserve sufficient records as prescribed in this section, or
21 the department has reason to believe that any records maintained or
22 returns filed are inaccurate or incomplete and that additional
23 taxes are due, the department may assess the amount of the tax due
24 from the taxpayer based on an indirect audit procedure or any other
25 information that is available or that may become available to the
26 department. That assessment is considered prima facie correct for
27 the purpose of this act and the burden of proof of refuting the

1 assessment is upon the taxpayer. An indirect audit of a taxpayer
2 under this subsection shall be conducted in accordance with 1941 PA
3 122, MCL 205.1 to 205.31, and the standards published by the
4 department under section 21 of 1941 PA 122, MCL 205.21, and shall
5 include all of the following elements:

6 (a) A review of the taxpayer's books and records. The
7 department may use an indirect method to test the accuracy of the
8 taxpayer's books and records.

9 (b) Both the credibility of the evidence and the
10 reasonableness of the conclusion shall be evaluated before any
11 determination of tax liability is made.

12 (c) The department may use any method to reconstruct income,
13 deductions, or expenses that is reasonable under the circumstances.
14 The department may use third-party records in the reconstruction.

15 (d) The department shall investigate all reasonable evidence
16 presented by the taxpayer refuting the computation.

17 (6) ~~(5)~~—If a taxpayer has filed all the required returns and
18 has maintained and preserved sufficient records as required under
19 this section, the department shall not base a tax deficiency
20 determination or assessment on any indirect audit procedure unless
21 the department has a documented reason to believe that any records
22 maintained or returns filed are inaccurate or incomplete and that
23 additional taxes are due.

24 (7) ~~(6)~~—If all the information is maintained as provided under
25 section 12, an exemption certificate is not required for an
26 exemption claim by the following:

27 (a) A person licensed by the Michigan liquor control

1 commission as a wholesaler for purposes of sales of alcoholic
2 liquor to another person licensed by the Michigan liquor control
3 commission. As used in this subsection, "alcoholic liquor",
4 "authorized distribution agent", and "wholesaler" mean those terms
5 as defined in the Michigan liquor control code of 1998, 1998 PA 58,
6 MCL 436.1101 to 436.2303.

7 (b) The Michigan liquor control commission or a person
8 certified by the commission as an authorized distribution agent for
9 purposes of the sale and distribution of alcoholic liquor to a
10 person licensed by the Michigan liquor control commission.

11 (8) ~~(7)~~—For purposes of this act, a blanket exemption claim
12 covers all exempt transfers between the taxpayer and the buyer for
13 a period of 4 years or for a period of less than 4 years as stated
14 on the blanket exemption claim if that period is agreed to by the
15 buyer and taxpayer. Renewal of a blanket exemption claim or an
16 update of exemption claim information or data elements is not
17 required if there is a recurring business relationship between the
18 seller and the purchaser. For purposes of this subsection, a
19 recurring business relationship exists when a period of not more
20 than 12 months elapses between sales transactions.

21 (9) ~~(8)~~—As used in this section:

22 (A) "ANTI-SALES SUPPRESSION DEVICE" MEANS A TANGIBLE DEVICE,
23 SOFTWARE PROGRAM, OR ANY OTHER MEANS USED TO PREVENT OR DETECT THE
24 USE OF AN AUTOMATED SALES SUPPRESSION DEVICE OR ZAPPER, PHANTOM-
25 WARE, OR A SKIMMING DEVICE AS THOSE TERMS ARE DEFINED IN SECTION
26 411W OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.411W.

27 (B) ~~(a)~~—"Indirect audit procedure" is an audit method that

1 involves the determination of tax liabilities through an analysis
2 of a taxpayer's business activities using information from a range
3 of sources beyond the taxpayer's declaration and formal books and
4 records.

5 (C) ~~(b)~~—"Sufficient records" means records that meet the
6 department's need to determine the tax due under this act.