

# HOUSE BILL No. 5300

October 24, 1991, Introduced by Reps. Hertel, Hood, DeMars, Kilpatrick, Joe Young, Sr., Leland, Ostling, Bennane, Bartnik, Webb, Hunter, Wallace, Stallworth, Clarke, Varga, Niederstadt, Wozniak, Pitoniak and Muxlow and referred to the Committee on Appropriations.

A bill to assist in the financing of stadia; to permit counties to impose and collect an excise tax on businesses engaged in the preparation and delivery of food and beverages for immediate consumption, in leasing or renting motor vehicles in the county, and in providing accommodations for dwelling, lodging, or sleeping purposes and to limit the rate of that excise tax; to authorize voter approval in a single ballot question of the excise tax authorized by this act and of certain purposes for which the excise tax is imposed; to provide for the establishment of procedures for the collection, administration, and enforcement of the excise tax; to impose duties upon certain state departments and state and local officials; to provide for the disposition and transmittal of the revenues from the tax and authorize the pledge of those revenues; and to repeal certain acts and parts of acts.

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

1       Sec. 1. As used in this act:

2       (a) "Accommodations" means the room or other space provided  
3 for sleeping, including furnishings and other accessories in the  
4 room but not including the provision of food, beverages, tele-  
5 phone services, television or movie services, or other similar  
6 services, in a facility that is not a hospital, nursing home,  
7 emergency shelter, community mental health or community substance  
8 abuse treatment facility, or campground.

9       (b) "Chief executive officer" means the county executive of  
10 a county or, if the county does not have an elected county execu-  
11 tive, the chairperson of the county board of commissioners.

12       (c) "Eligible county" means a county with a population of  
13 1,500,000 or more persons.

14       (d) "Gross receipts" means that term as defined in section 7  
15 of the single business tax act, Act No. 228 of the Public Acts of  
16 1975, being section 208.7 of the Michigan Compiled Laws. Gross  
17 receipts does not include any amount received as reimbursement of  
18 sales tax or as charges for use tax.

19       (e) "Motor vehicle" means a motor vehicle subject to regis-  
20 tration and certificate of title under section 216 of the  
21 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,  
22 being section 257.216 of the Michigan Compiled Laws, that is  
23 designed and intended to be used primarily in the transportation  
24 of passengers. Motor vehicle does not include a road tractor,  
25 school bus, special mobile equipment, tank vehicle, truck  
26 tractor, implement of husbandry, or farm tractor as these terms

1 are defined by Act No. 300 of the Public Acts of 1949, being  
2 sections 257.1 to 257.923 of the Michigan Compiled Laws.

3 (f) "Person" means an individual, partnership, corporation,  
4 association, or other legal entity.

5 (g) "Stadium" means a professional baseball facility,  
6 including necessary sites, related parking lots or structures,  
7 and appurtenant properties and facilities, if the facility itself  
8 contains not less than 25,000 seats and is located within the  
9 boundaries of a downtown district established before the effec-  
10 tive date of this act under Act No. 197 of the Public Acts of  
11 1975, being sections 125.1651 to 125.1681 of the Michigan  
12 Compiled Laws, in the most populous city in the eligible county.

13 (h) "Transient guest" means a person who occupies an accom-  
14 modation for less than 30 consecutive days.

15 Sec. 2. (1) The governing body of an eligible county, by  
16 ordinance, may levy, assess, and collect an excise tax on the  
17 privilege of operating the following businesses in the eligible  
18 county:

19 (a) A person engaged in the business of preparation and  
20 delivery of food and beverages for immediate consumption, includ-  
21 ing alcoholic beverages, who is licensed to operate within the  
22 eligible county as a food service establishment under part 129 of  
23 the public health code, Act No. 368 of the Public Acts of 1978,  
24 being sections 333.12901 to 333.12922 of the Michigan Compiled  
25 Laws. This subdivision does not apply to a school district pro-  
26 viding meals to pupils or to a grocery store licensed under the  
27 food processing act of 1977, Act No. 328 of the Public Acts of

1 1978, being sections 289.801 to 289.810 of the Michigan Compiled  
2 Laws, whose sale of food or beverages for immediate consumption  
3 is in a volume incidental to the volume of its business as a gro-  
4 cery store.

5 (b) A person engaged in the business of the leasing or  
6 rental of motor vehicles of which delivery is made in the eligi-  
7 ble county.

8 (c) A person engaged in the business of providing accommo-  
9 dations for dwelling, lodging, or sleeping purposes in an eligible  
10 county to transient guests, whether or not membership is required  
11 for the use of the accommodations.

12 (2) The rate of tax imposed pursuant to subsection (1) shall  
13 not exceed the following amounts:

14 (a) 1% of the gross receipts received by the person subject  
15 to tax under subsection (1)(a) from the sale of food and bever-  
16 ages, including alcoholic beverages, for immediate consumption  
17 either on or off the premises but excluding food or beverages  
18 obtained from a vending machine.

19 (b) 2% of the gross receipts received by the person subject  
20 to tax under subsection (1)(b) from the leasing or rental of  
21 motor vehicles for periods of less than 30 consecutive days.

22 (c) 1% of the gross receipts received by a person subject to  
23 tax under subsection (1)(c) from the charges imposed for the use  
24 or occupancy of accommodations provided in the eligible county to  
25 transient guests, but excluding charges imposed as reimbursement  
26 for assessments imposed under the convention and tourism  
27 marketing act, Act No. 383 of the Public Acts of 1980, being

1 sections 141.881 to 141.889 of the Michigan Compiled Laws, the  
2 regional tourism marketing act, Act No. 244 of the Public Acts of  
3 1989, being sections 141.891 to 141.900 of the Michigan Compiled  
4 Laws, and the community convention or tourism marketing act, Act  
5 No. 395 of the Public Acts of 1980, being sections 141.871 to  
6 141.880 of the Michigan Compiled Laws.

7       (3) The ordinance shall specify the date on which it becomes  
8 effective, which shall not be earlier than 30 days after the date  
9 on which the ordinance is approved by a vote of a majority of the  
10 electors of the eligible county voting on the ordinance at a pri-  
11 mary or general election or at a special election called for that  
12 purpose. It is the duty of the county clerk and all local elec-  
13 tion officials within the county to take those steps necessary to  
14 conduct the election, the incremental expense of which shall be  
15 reimbursed by the eligible county. The question presented to the  
16 voters shall state the rates at which the tax is authorized and  
17 that the purpose of the tax is principally to secure and fund the  
18 payment of rentals by the eligible county to an authority orga-  
19 nized for the purpose of acquiring a stadium and leasing it to  
20 the eligible county. The question presented may also request  
21 approval of the leasing and subleasing of the stadium by the eli-  
22 gible county. However, if the question presented does not  
23 include a request for approval of the leasing and subleasing of  
24 the stadium, a right of initiative and referendum exists, in  
25 accordance with the terms of the local charter, in relation to  
26 the adoption or execution of any contract, lease, or sublease for  
27 the stadium or of any amendment to any contract of lease or

1 sublease of any local unit of government necessary to allow the  
2 eligible county to lease or sublease the stadium.

3 (4) Subject to the terms of section 31 of article IX of the  
4 state constitution of 1963, the ordinance may be amended by  
5 approval of the governing body of the eligible county and may be  
6 repealed by action of the governing body of the eligible county.

7 Sec. 3. The ordinance adopted pursuant to section 2 shall  
8 provide for the following:

9 (a) The rates of the tax.

10 (b) The manner of imposition of the tax, including the dates  
11 on which the tax is due, the period covered by each collection,  
12 and the method or methods of payment.

13 (c) The rates and manner of the imposition of interest and  
14 penalties for delinquency in filing returns, payment of taxes, or  
15 violations of the ordinance, which shall not exceed interest and  
16 penalty charges imposed under Act No. 122 of the Public Acts of  
17 1941, being sections 205.1 to 205.31 of the Michigan Compiled  
18 Laws, for a tax levied by the state.

19 (d) The determination and allowance of exemptions, abate-  
20 ments, and refunds.

21 (e) The designation of the collector of the tax.

22 (f) Procedures for the appeal of any assessment, including  
23 the period in which a person may appeal the assessment. All  
24 appeals shall be made to the tax tribunal subject to the tax tri-  
25 bunal act, Act No. 186 of the Public Acts of 1973, being sections  
26 205.701 to 205.779 of the Michigan Compiled Laws.

1 (g) That if any 1 or more provisions of the ordinance for  
2 any reason are adjudged invalid or unenforceable, that judgment  
3 does not affect, impair, or invalidate the remaining provisions  
4 of the ordinance.

5 Sec. 4. (1) The chief executive of the county and the state  
6 treasurer may enter into an agreement providing that the tax  
7 imposed by this act be administered and collected by the revenue  
8 division of the department of treasury. If there is agreement,  
9 the department of treasury shall administer and collect the tax  
10 imposed by this act on behalf of the county, and the ordinance  
11 shall provide for the administration and collection of the tax  
12 imposed by this act in the same manner as state taxes are admin-  
13 istered and collected under Act No. 122 of the Public Acts of  
14 1941, being sections 205.1 to 205.31 of the Michigan Compiled  
15 Laws, except for procedures for the appeal of any assessment as  
16 provided by the ordinance. Not more than 15 days after their due  
17 date, taxes, interest, and penalties collected by the revenue  
18 division of the department of treasury pursuant to that agreement  
19 shall be remitted to the eligible county that imposed the tax.  
20 Any remittance to the eligible county by the department of trea-  
21 sury after that date shall include interest earned on the gross  
22 collections after that deadline and before transmittal to the  
23 eligible county.

24 (2) The ordinance may provide for 1 or more of the  
25 following:

1 (a) The adoption and enforcement of rules by the eligible  
2 county to apply, interpret, and effectuate the provision and  
3 purposes of the tax.

4 (b) The prescribing and furnishing to taxpayers of forms,  
5 instructions, manuals, and other materials necessary or conven-  
6 ient for the administration of the tax.

7 (c) The requiring of taxpayers to file returns, provide  
8 information, and maintain records that are reasonable for  
9 enforcement of the tax and auditing of the returns.

10 (d) The examination of the books and records of a taxpayer  
11 for purposes of determining the correctness of a tax return or  
12 information filed, or for the determination of any further tax  
13 liability.

14 (3) Information obtained pursuant to a provision in the  
15 ordinance authorized under subsection (2)(d) or through any  
16 return, investigation hearing, or verification required or autho-  
17 rized by the ordinance is confidential, except for official pur-  
18 poses in connection with the administration of the ordinance and  
19 except in accordance with a proper judicial order. A person who  
20 divulges this confidential information, except for official pur-  
21 poses, is guilty of a violation of the ordinance and subject to a  
22 fine of not more than \$5,000.00, or imprisonment for not more  
23 than 5 years, or both. Additionally, if the offense is committed  
24 by an employee of the eligible county or the state, the person  
25 shall be dismissed from office or discharged from employment upon  
26 conviction.



1       Sec. 5. The excise tax levied under this act is in addition  
2 to any other taxes, charges, or fees and may be levied  
3 notwithstanding any other law to the contrary.

4       Sec. 6. The revenues from the tax imposed under this act  
5 shall be deposited in a special fund and shall be used and may be  
6 pledged by the eligible county only for the following purposes or  
7 paid to the following entities in the following order of  
8 priority:

9       (a) For the costs borne by the eligible county for the elec-  
10 tion required under section 2(3) and in the administration and  
11 enforcement of the ordinance.

12       (b) For the costs associated with the acquisition and con-  
13 struction of a stadium, including reimbursement of costs of  
14 acquisition or construction paid by an eligible county, or cur-  
15 rent or future annual rental payable by the eligible county or  
16 reimbursement of the eligible county for rentals paid, to an  
17 authority that is organized pursuant to state law for the purpose  
18 of acquiring a stadium and leasing it to the eligible county.

19       (c) To the extent not needed for purposes identified in  
20 subdivision (a) or (b) in any year or to maintain a reserve for  
21 those purposes in future years, for economic development pur-  
22 poses, and the enhancement of tourism within the eligible county,  
23 including costs associated with the clearance and improvement of  
24 land for assembly and development purposes.

25       Sec. 7. Act No. 232 of the Public Acts of 1971, being sec-  
26 tions 141.851 to 141.855 of the Michigan Compiled Laws, is  
27 repealed.