

# SENATE BILL No. 187

March 14, 1991, Introduced by Senator V. SMITH and referred to the Committee on Finance.

A bill to amend sections 3, 3a, and 4 of Act No. 94 of the Public Acts of 1937, entitled as amended

"Use tax act,"

section 3 as amended by Act No. 86 of the Public Acts of 1990 and section 4 as amended by Act No. 141 of the Public Acts of 1989, being sections 205.93, 205.93a, and 205.94 of the Michigan Compiled Laws; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 3a, and 4 of Act No. 94 of the  
2 Public Acts of 1937, section 3 as amended by Act No. 86 of the  
3 Public Acts of 1990 and section 4 as amended by Act No. 141 of  
4 the Public Acts of 1989, being sections 205.93, 205.93a, and  
5 205.94 of the Michigan Compiled Laws, are amended to read as  
6 follows:

1       Sec. 3. (1) There is levied upon and there shall be  
2 collected from every person in this state a specific tax for the  
3 privilege of using, storing, or consuming tangible personal prop-  
4 erty in this state, ~~which tax shall be equal to~~ AT A RATE OF 4%  
5 of the price of the property, or services specified in section  
6 3a, ~~and to the tax there shall be added~~ INCLUDING ADDITIONAL  
7 penalties and interest ~~where~~ IF applicable as provided in this  
8 act. For the purpose of the proper administration of this act  
9 and to prevent the evasion of the tax, it is presumed that tangi-  
10 ble personal property purchased ~~shall be~~ IS subject to the tax  
11 if brought into the state within 90 days of the purchase date and  
12 is considered as acquired for storage, use, or other consumption  
13 in this state.

14       (2) The tax imposed by this section for the privilege of  
15 using, storing, or consuming a vehicle, ORV, mobile home, air-  
16 craft, snowmobile, or watercraft shall be collected before the  
17 transfer of the vehicle, ORV, mobile home, aircraft, snowmobile,  
18 or watercraft, except ~~transfers~~ A TRANSFER to a licensed dealer  
19 or retailer for purposes of resale that arises by reason of a  
20 transaction made by a person who does not transfer vehicles,  
21 ORV's, mobile homes, aircraft, snowmobiles, or watercraft in the  
22 ordinary course of his or her business done in this state. The  
23 tax on a vehicle, ORV, snowmobile, and watercraft shall be col-  
24 lected by the secretary of state before the transfer of the vehi-  
25 cle, ORV, snowmobile, or watercraft registration. The tax on a  
26 mobile home shall be collected by the department of commerce,  
27 mobile home commission, or its agent before the transfer of the

1 certificate of title. The tax on an aircraft shall be collected  
2 by the department of treasury. Notwithstanding any limitation  
3 contained in section 2, the price tax base of any vehicle, ORV,  
4 mobile home, aircraft, snowmobile, or watercraft subject to taxa-  
5 tion under this act shall be not less than its retail dollar  
6 value at the time of acquisition ~~thereof~~ as fixed pursuant to  
7 rules promulgated by the department.

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

10 ~~(a) When the transferee or purchaser is the spouse, mother,~~  
11 ~~father, brother, sister, or child of the transferor.~~

12 (A) ~~(b) When~~ IF the transfer is a gift to a beneficiary in  
13 the administration of an estate.

14 (B) ~~(c) When~~ IF a vehicle, ORV, mobile home, aircraft,  
15 snowmobile, or watercraft that has once been subjected to the  
16 Michigan sales or use tax is transferred in connection with the  
17 organization, reorganization, dissolution, or partial liquidation  
18 of an incorporated or unincorporated business and the beneficial  
19 ownership is not changed.

20 (C) ~~(d) When~~ IF an insurance company licensed to conduct  
21 business in this state acquires ownership of a late model dis-  
22 tressed vehicle as defined in section 12a of the Michigan vehicle  
23 code, Act No. 300 of the Public Acts of 1949, being  
24 section 257.12a of the Michigan Compiled Laws, through payment of  
25 damages in response to a claim or ~~when~~ IF the person who owned  
26 the vehicle before the insurance company reacquires ownership  
27 from the company as part of the settlement of a claim.

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

7 Sec. 3a. The use or consumption of the following services  
8 shall be taxed under this act in the same manner as tangible per-  
9 sonal property is taxed under this act:

10 (a) Intrastate telephone, telegraph, leased wire, and other  
11 similar communications, including local telephone exchange and  
12 long distance telephone service ~~which~~ THAT both originates and  
13 terminates in Michigan; ~~—~~ INTERSTATE LONG-DISTANCE TELEPHONE  
14 SERVICE THAT ORIGINATES OR TERMINATES IN MICHIGAN AND IS BILLED  
15 TO AN EXCHANGE IN MICHIGAN; and telegraph, private line and tele-  
16 typewriter service between places in Michigan, but excluding  
17 telephone service by coin-operated installations, switchboards,  
18 concentrator-identifiers, interoffice circuitry and their acces-  
19 sories for telephone answering service and directory advertising  
20 proceeds.

21 (b) Rooms or lodging furnished by hotelkeepers, motel  
22 operators, and other persons furnishing accommodations that are  
23 available to the public ~~—~~ on the basis of a commercial and  
24 business enterprise, irrespective of whether or not membership is  
25 required for use of the accommodations, except rooms and lodging  
26 rented for a continuous period of more than 1 month. As used in  
27 this act, "hotel" or "motel" means a building or group of

1 buildings in which the public may obtain accommodations for a  
2 consideration, including, without limitation, such establishments  
3 as inns, motels, tourist homes, tourist houses or courts, lodging  
4 houses, rooming houses, nudist camps, apartment hotels, resort  
5 lodges and cabins, camps operated by other than nonprofit organi-  
6 zations but not including those licensed under ~~Act No. 47 of~~  
7 ~~the First Extra Session of 1944, as amended, being sections~~  
8 ~~722.101 to 722.108 of the Compiled Laws of 1948~~ ACT NO. 116 OF  
9 THE PUBLIC ACTS OF 1973, BEING SECTIONS 722.111 TO 722.128 OF THE  
10 MICHIGAN COMPILED LAWS, and any other building or group of build-  
11 ings in which accommodations are available to the public, except  
12 accommodations rented for a continuous period of more than 1  
13 month and accommodations furnished by hospitals or nursing  
14 homes.

15 Sec. 4. The tax levied ~~shall~~ DOES not apply to THE  
16 FOLLOWING:

17 (a) Property sold in this state on which transaction a tax  
18 is paid under the general sales tax act, Act No. 167 of the  
19 Public Acts of 1933, as amended, being sections 205.51 to 205.78  
20 of the Michigan Compiled Laws, if the tax was due and paid on the  
21 retail sale to a consumer.

22 (b) Property, the storage, use, or other consumption of  
23 which, this state is prohibited from taxing under the constitu-  
24 tion or laws of the United States, or under the constitution of  
25 this state.

26 (c) Property purchased for resale, demonstration purposes,  
27 or lending or leasing to a public or parochial school offering a

1 course in automobile driving except that a vehicle purchased by  
2 the school shall be certified for driving education and shall not  
3 be reassigned for personal use by the school's administrative  
4 personnel. For a dealer selling a new car or truck, exemption  
5 for demonstration purposes shall be determined by the number of  
6 new cars and trucks sold during the current calendar year or the  
7 immediate prior year without regard to specific make or style in  
8 accordance with the following schedule ~~—~~ OF 0 to 25, 2 units;  
9 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units;  
10 but not to exceed 25 cars and trucks in 1 calendar year for  
11 demonstration purposes.

12 (d) Property that is brought into this state by a nonresi-  
13 dent person for storage, use, or consumption while temporarily  
14 within this state, except ~~when~~ IF the property is used in this  
15 state in a nontransitory business activity for a period exceeding  
16 15 days.

17 (e) Property the sale or use of which was already subjected  
18 to a sales tax or use tax equal to, or in excess of, that imposed  
19 by this act under the law of any other state or a local govern-  
20 mental unit within a state, if the tax was due and paid on the  
21 retail sale to the consumer and the state or local governmental  
22 unit within a state in which the tax was imposed accords like or  
23 complete exemption on property the sale or use of which was sub-  
24 jected to the sales or use tax of this state. If the sale or use  
25 of property was already subjected to a tax under the law of any  
26 other state or local governmental unit within a state in an  
27 amount less than the tax imposed by this act, this act shall

1 apply, but at a rate measured by the difference only between the  
2 rate provided in this act and the rate by which the previous tax  
3 was computed.

4 (f) Property sold to a person engaged in a business enter-  
5 prise and using and consuming the property in the tilling, plant-  
6 ing, caring for, or harvesting of the things of the soil or in  
7 the breeding, raising, or caring for livestock, poultry, or  
8 horticultural products, including transfers of livestock, poul-  
9 try, or horticultural products for further growth. In that case,  
10 at the time of the transfer of the tangible personal property,  
11 the transferee shall sign a statement, in a form approved by the  
12 department, stating that the property is to be used or consumed  
13 in connection with the production of horticultural or agricul-  
14 tural products as a business enterprise. The statement shall be  
15 accepted by the courts as prima facie evidence of the exemption.  
16 Beginning January 1, 1989, this exemption includes agricultural  
17 land tile, which means fired clay or perforated plastic tubing  
18 used as part of a subsurface drainage system for land used in the  
19 production of agricultural products as a business enterprise and  
20 includes a portable grain bin, which means a structure that is  
21 used or is to be used to shelter grain and that is designed to be  
22 disassembled without significant damage to its component parts.  
23 This exemption does not include transfers of food, fuel, cloth-  
24 ing, or similar tangible personal property for personal living or  
25 human consumption. This exemption ~~shall~~ DOES not include tan-  
26 gible personal property permanently affixed and becoming a  
27 structural part of real estate.

1 (g) Property sold to the following:

2 (i) An industrial processor for use or consumption in indus-  
3 trial processing. Property used or consumed in industrial pro-  
4 cessing does not include tangible personal property permanently  
5 affixed and becoming a structural part of real estate; office  
6 furniture, office supplies, and administrative office equipment;  
7 or vehicles licensed and titled for use on public highways.

8 Industrial processing does not include receipt and storage of raw  
9 materials purchased or extracted by the user or consumer, or the  
10 preparation of food and beverages by a retailer for retail sale.

11 As used in this subdivision, "industrial processor" means a  
12 person who transforms, alters, or modifies tangible personal  
13 property by changing the form, composition, or character of the  
14 property for ultimate sale at retail or sale to another indus-  
15 trial processor to be further processed for ultimate sale at  
16 retail. Sales to a person performing a service who does not act  
17 as an industrial processor while performing the service may not  
18 be excluded under this subdivision, except as provided in sub-  
19 paragraph (ii).

20 (ii) After December 31, 1984, a person, whether or not the  
21 person is an industrial processor, when the property is a com-  
22 puter used in operating industrial processing equipment; equip-  
23 ment used in a computer assisted manufacturing system; equipment  
24 used in a computer assisted design or engineering system integral  
25 to an industrial process; or a subunit or electronic assembly  
26 comprising a component in a computer integrated industrial  
27 processing system.

1 (h) Property or services sold to the United States, an  
2 unincorporated agency or instrumentality of the United States, an  
3 incorporated agency or instrumentality of the United States  
4 wholly owned by the United States or by a corporation wholly  
5 owned by the United States, the American red cross and its chap-  
6 ters or branches, this state, a department or institution of this  
7 state, or a political subdivision of this state.

8 (i) Property or services sold to a school, hospital, home  
9 for the care and maintenance of children or aged persons, or  
10 other health, welfare, educational, cultural arts, charitable, or  
11 benevolent institution or agency, operated by an entity of gov-  
12 ernment, a regularly organized church, religious, or fraternal  
13 organization, a veterans' organization, or a corporation incorpo-  
14 rated under the laws of this state, ~~when~~ IF not operated for  
15 profit, ~~and when~~ IF the income or benefit from the operation  
16 does not ~~inure,~~ in whole or in part ~~—~~ INURE to an individual  
17 or private shareholder, directly or indirectly, and ~~when~~ IF the  
18 activities of the entity or agency are carried on exclusively for  
19 the benefit of the public at large and are not limited to the  
20 advantage, interests, and benefits of its members or a restricted  
21 group. The tax levied ~~shall~~ DOES not apply to property or  
22 services sold to a parent cooperative preschool. As used in this  
23 subdivision, "parent cooperative preschool" means a nonprofit,  
24 nondiscriminatory educational institution, maintained as a commu-  
25 nity service and administered by parents of children currently  
26 enrolled in the preschool, ~~which~~ THAT provides an educational  
27 and developmental program for children younger than compulsory

1 school age, ~~which~~ THAT provides an educational program for  
2 parents, including active participation with children in pre-  
3 school activities, ~~which~~ THAT is directed by qualified pre-  
4 school personnel, and ~~which~~ THAT is licensed by the department  
5 of social services pursuant to Act No. 116 of the Public Acts of  
6 1973, as amended, being sections 722.111 to 722.128 of the  
7 Michigan Compiled Laws.

8 (j) Property or services sold to a regularly organized  
9 church or house of religious worship except:

10 (i) Sales in which the property is used in activities that  
11 are mainly commercial enterprises.

12 (ii) Sales of vehicles licensed for use on the public  
13 highways. ~~other than a passenger van or bus with a~~  
14 ~~manufacturer's rated seating capacity of 10 or more that is used~~  
15 ~~primarily for the transportation of persons for religious~~  
16 ~~purposes.~~

17 ~~(k) A vessel designed for commercial use of registered ton-~~  
18 ~~nage of 500 tons or more, when produced upon special order of the~~  
19 ~~purchaser, and bunker and galley fuel, provisions, supplies,~~  
20 ~~maintenance, and repairs for the exclusive use of a vessel of 500~~  
21 ~~tons or more engaged in interstate commerce.~~

22 (l) Property purchased by a person engaged in the business  
23 of constructing, altering, repairing, or improving real estate  
24 for others to the extent the property is affixed to and made a  
25 structural part of the real estate of a nonprofit hospital or a  
26 nonprofit housing entity qualified as exempt pursuant to section  
27 15a of the state housing development authority act of 1966, Act

1 No. 346 of the Public Acts of 1966, as amended, being section  
2 125.1415a of the Michigan Compiled Laws. A nonprofit hospital or  
3 nonprofit housing includes only the property of a nonprofit hos-  
4 pital or the homes or dwelling places constructed by a nonprofit  
5 housing entity, the income or property of which does not directly  
6 or indirectly inure to the benefit of an individual, private  
7 stockholder, or other private person.

8 (m) Property purchased for use in this state where actual  
9 personal possession is obtained outside this state, the purchase  
10 price or actual value of which does not exceed \$10.00 during 1  
11 calendar month.

12 (n) A newspaper or periodical classified under federal  
13 postal laws and regulations effective September 1, 1985 as second  
14 class mail matter or as a controlled circulation publication or  
15 qualified to accept legal notices for publication in this state,  
16 as defined by law, or any other newspaper or periodical of gen-  
17 eral circulation, established at least 2 years, and published at  
18 least once a week, and a copyrighted motion picture film.

19 Tangible personal property used or consumed ~~—~~ and not becoming  
20 a component part of a newspaper, ~~—or—~~ periodical, OR COPYRIGHTED  
21 MOTION PICTURE FILM IS SUBJECT TO TAX, except that portion or  
22 percentage of tangible personal property used or consumed in  
23 producing an advertising supplement that becomes a component part  
24 of a newspaper or periodical. ~~—, and a copyrighted motion pic-~~  
25 ~~ture film is subject to tax.~~ For purposes of this subdivision,  
26 tangible personal property that becomes a component part of a  
27 newspaper or periodical, and thereby not subject to tax, ~~—shall~~

1 ~~include~~ INCLUDES an advertising supplement inserted into and  
2 circulated with a newspaper or periodical ~~which~~ THAT is other-  
3 wise exempt from tax under this subdivision, if the advertising  
4 supplement is delivered directly to the newspaper or periodical  
5 by a person other than the advertiser, or the advertising supple-  
6 ment is printed by the newspaper or periodical.

7 (o) Property purchased by persons licensed to operate a com-  
8 mercial radio or television station ~~when~~ IF the property is  
9 used in the origination or integration of the various sources of  
10 program material for commercial radio or television  
11 transmission. This subdivision does not include a vehicle  
12 licensed and titled for use on public highways or property used  
13 in the transmitting to or receiving from an artificial  
14 satellite.

15 (p) A person who is a resident of this state who purchases  
16 an automobile in another state while in the military service of  
17 the United States and who pays a sales tax in the state where the  
18 automobile is purchased.

19 (q) A vehicle for which a special registration is secured in  
20 accordance with section 226(9) of the Michigan vehicle code, Act  
21 No. 300 of the Public Acts of 1949, as amended, being section  
22 257.226 of the Michigan Compiled Laws.

23 (r) A hearing aid, contact lenses if prescribed for a spe-  
24 cific disease ~~which~~ THAT precludes the use of eyeglasses, or  
25 any other apparatus, device, or equipment used to replace or sub-  
26 stitute for any part of the human body, or used to assist the  
27 disabled person to lead a reasonably normal life ~~when~~ IF the

1 tangible personal property is purchased on a written prescription  
2 or order issued by a licensed health professional as defined by  
3 section 4 of former Act No. 264 of the Public Acts of 1974, as  
4 amended, being section 325.904 of the Michigan Compiled Laws, or  
5 section 21005 of the public health code, Act No. 368 of the  
6 Public Acts of 1978, being section 333.21005 of the Michigan  
7 Compiled Laws, or eyeglasses prescribed or dispensed to correct  
8 the person's vision by an ophthalmologist, optometrist, or  
9 optician.

10 ~~(s) Water when delivered through water mains or in bulk~~  
11 ~~tanks in quantities of not less than 500 gallons.~~

12 ~~(t) The purchase of machinery and equipment for use or con-~~  
13 ~~sumption in the rendition of a service, the use or consumption of~~  
14 ~~which is taxable under section 3a(a) except that this exception~~  
15 ~~is limited to the tangible personal property located on the~~  
16 ~~premises of the subscriber and the necessary exchange equipment.~~

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

20 (v) Tangible personal property purchased and installed as a  
21 component part of a water pollution control facility for which a  
22 tax exemption certificate is issued pursuant to Act No. 222 of  
23 the Public Acts of 1966, as amended, being sections 323.351 to  
24 323.358 of the Michigan Compiled Laws, or an air pollution con-  
25 trol facility for which a tax exemption certificate is issued  
26 pursuant to Act No. 250 of the Public Acts of 1965, as amended,  
27 being sections 336.1 to 336.8 of the Michigan Compiled Laws.

1 (w) Tangible real or personal property donated by a  
2 manufacturer, wholesaler, or retailer to an organization or  
3 entity exempt pursuant to subdivision (i) or (j) or section 4a(a)  
4 or (b) of the general sales tax act, Act No. 167 of the Public  
5 Acts of 1933, as amended, being section 205.54a of the Michigan  
6 Compiled Laws.

7 (x) The storage, use, or consumption of any aircraft owned  
8 or used by a domestic passenger air carrier operating under a  
9 certificate issued by the civil aeronautics board pursuant to  
10 section 401 of title IV of the federal aviation act of 1958,  
11 49 U.S.C. 1371, if the aircraft is used primarily in the regu-  
12 larly scheduled commercial transport of passengers.

13 Section 2. Section 4f of Act No. 94 of the Public Acts of  
14 1937, being section 205.94f of the Michigan Compiled Laws, is  
15 repealed.