



# SENATE BILL No. 598

May 4, 1993, Introduced by Senator DE GROW and referred to the Committee on Finance.

A bill to amend sections 2, 4, 6, 6a, 23, and 25 of Act No. 167 of the Public Acts of 1933, entitled as amended "General sales tax act," section 2 as amended by Act No. 228 of the Public Acts of 1984, sections 4 and 6 as amended by Act No. 18 of the Public Acts of 1993, section 6a as amended by Act No. 23 of the Public Acts of 1985, and section 25 as amended by Act No. 70 of the Public Acts of 1991, being sections 205.52, 205.54, 205.56, 205.56a, 205.73, and 205.75 of the Michigan Compiled Laws; and to add section 4m.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 2, 4, 6, 6a, 23, and 25 of Act No. 167  
2 of the Public Acts of 1933, section 2 as amended by Act No. 228  
3 of the Public Acts of 1984, sections 4 and 6 as amended by Act  
4 No. 18 of the Public Acts of 1993, section 6a as amended by Act  
5 No. 23 of the Public Acts of 1985, and section 25 as amended by

1 Act No. 70 of the Public Acts of 1991, being sections 205.52,  
2 205.54, 205.56, 205.56a, 205.73, and 205.75 of the Michigan  
3 Compiled Laws, are amended and section 4m is added to read as  
4 follows:

5       Sec. 2. (1) Except as provided in section 2a, there is  
6 ~~hereby~~ levied upon and there shall be collected from all per-  
7 sons engaged in the business of making sales at retail, as  
8 defined in section 1, an annual tax for the privilege of engaging  
9 in that business equal to ~~4%~~ 6% of the gross proceeds ~~thereof~~  
10 OF THE BUSINESS, plus the penalty and interest ~~when~~ IF applica-  
11 ble as provided by law, less deductions allowed by this ~~section~~  
12 ACT.

13       (2) Any person engaged in the business of making sales at  
14 retail who is at the same time engaged in some other kind of  
15 business, occupation, or profession not taxable under this act,  
16 shall keep books to show separately the transactions used in  
17 determining the tax levied by this act. If the person fails to  
18 keep separate books, there shall be levied upon him or her the  
19 tax provided for in subsection (1) equal to ~~4%~~ 6% of the entire  
20 gross proceeds of both or all of his or her businesses. The  
21 taxes levied by this section ~~shall be~~ IS a personal obligation  
22 of the taxpayer.

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

1 (a) If the tax that accrued to the state from the sales at  
2 retail during the preceding month is remitted to the department  
3 on or before the seventh day of the month in which remittance is  
4 due, 0.75% of the tax due AT A RATE OF 4% for the preceding  
5 monthly period, but not to exceed \$20,000.00 of the tax due for  
6 that month. If the tax that accrued to the state from the sales  
7 at retail during the preceding month is remitted to the depart-  
8 ment after the seventh day and on or before the fifteenth day of  
9 the month in which remittance is due, 0.50% of the tax due AT A  
10 RATE OF 4% for the preceding monthly period, but not to exceed  
11 \$15,000.00 of the tax due for that month.

12 (b) The tax AT A RATE OF 4% due on \$150.00 of taxable gross  
13 proceeds for the preceding monthly period, or a prorated portion  
14 of \$150.00 of the taxable gross proceeds for the preceding month  
15 if the taxpayer engaged in business for less than a month.

16 (2) In computing the amount of tax levied under this act for  
17 any month, a taxpayer subject to section 6(2) may deduct the  
18 amount provided in this subsection. If the tax that is due to  
19 the state is remitted to the department on or before the eleventh  
20 day of the month in which remittance is due, 0.75% of the tax due  
21 AT A RATE OF 4% but not to exceed \$20,000.00 of the tax due for  
22 that month may be deducted. If the tax that is due to the state  
23 is remitted to the department after the eleventh day and on or  
24 before the eighteenth day of the month in which remittance is  
25 due, 0.50% of the tax due AT A RATE OF 4% but not to exceed  
26 \$15,000.00 of the tax due for that month may be deducted.

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

5       (4) If, pursuant to section 6(4), the commissioner of reve-  
6 nue prescribes the filing of returns and the payment of the tax  
7 for periods in excess of 1 month, a taxpayer shall be entitled to  
8 a deduction from the tax collections remitted to the department  
9 for the extended payment period that is equivalent to the deduc-  
10 tion allowed under subsection (1) or (2) for monthly periods.

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

14       (6) A person subject to a tax under this act shall not  
15 include in the amount of his or her gross proceeds used for the  
16 computation of the tax any proceeds of his or her business  
17 derived from sales to the United States, its unincorporated agen-  
18 cies and instrumentalities, any incorporated agency or instrumen-  
19 tality of the United States wholly owned by the United States or  
20 by a corporation wholly owned by the United States, the American  
21 Red Cross and its chapters and branches, and this state or its  
22 departments and institutions or any of its political  
23 subdivisions.

24       SEC. 4M. THE SALE OF MATERIAL PURCHASED BY PERSONS ENGAGED  
25 IN THE BUSINESS OF CONSTRUCTING, ALTERING, REPAIRING, OR IMPROV-  
26 ING REAL ESTATE FOR OTHERS IS EXEMPT FROM THE SALES TAX IMPOSED  
27 AT THE ADDITIONAL RATE OF 2% BY THE AMENDATORY ACT THAT ADDED

1 THIS SECTION IF THE MATERIAL PURCHASED IS AFFIXED AND MADE A  
2 STRUCTURAL PART OF REAL ESTATE OR USED AND COMPLETELY CONSUMED,  
3 IN THE FULFILLMENT OF A SINGLE CONTRACT THAT IS EITHER A FIXED  
4 PRICE CONTRACT ENTERED INTO BEFORE MAY 1, 1993 AND NOT SUBJECT TO  
5 CHANGE OR MODIFICATION OR A CONTRACT ENTERED INTO PURSUANT TO THE  
6 OBLIGATION OF A FORMAL WRITTEN BID MADE AND ACCEPTED BEFORE MAY  
7 1, 1993 THAT CANNOT BE ALTERED OR WITHDRAWN.

8       Sec. 6. (1) Each taxpayer unless otherwise provided by law  
9 or as required pursuant to subsection (2) or (4), on or before  
10 the fifteenth day of each month shall make out a return for the  
11 preceding month on a form prescribed by the department showing  
12 the entire amount of all sales and gross proceeds of his or her  
13 business, the allowable deductions therefrom, and the amount of  
14 tax for which he or she is liable, and shall transmit the return,  
15 together with a remittance for the amount of the tax, to the  
16 department on or before the fifteenth day of the month. The  
17 monthly return shall be signed by the taxpayer or his or her duly  
18 authorized agent and, if prepared for the taxpayer by any other  
19 person, the return shall so state, give the name and address of  
20 that person, be signed by that person, and give the name of his  
21 or her employer, if any.

22       (2) Beginning July 1, 1993, each taxpayer that had a total  
23 tax liability after subtracting the ~~fee~~ TAX payments made to  
24 the secretary of state, under this act or the use tax act, Act  
25 No. 94 of the Public Acts of 1937, being sections 205.91 to  
26 205.111 of the Michigan Compiled Laws, in the immediately  
27 preceding calendar year of \$480,000.00 FOR 1992, \$590,000.00 FOR

1 1993, OR \$720,000.00 FOR 1994 AND AFTER 1994, or more on or  
2 before the eighteenth of each month shall remit to the depart-  
3 ment, by an electronic funds transfer method approved by the com-  
4 missioner of revenue, an amount equal to 95% of the taxpayer's  
5 liability under this act for the same month in the immediately  
6 preceding calendar year, OR 95% OF THE ACTUAL LIABILITY FOR THE  
7 CURRENT MONTH BEING REPORTED, plus a reconciliation payment equal  
8 to the difference between the tax liability determined for the  
9 immediately preceding month minus the amount of tax previously  
10 paid for that month.

11 (3) The tax imposed under this act shall accrue to the state  
12 on the last day of the month in which the sale is incurred.

13 (4) The commissioner of revenue, when necessary to insure  
14 payment of the tax or to provide a more efficient administration,  
15 may require the filing of returns and payment of the tax for  
16 other than monthly periods.

17 Sec. 6a. (1) At the time of purchase or shipment from a  
18 refiner, pipeline terminal operator, or marine terminal operator,  
19 a purchaser or receiver of gasoline shall prepay a portion of the  
20 tax imposed by this act at the rate provided in this section to  
21 the refiner, pipeline terminal operator, or marine terminal oper-  
22 ator for the purchase or receipt of gasoline. If the purchase or  
23 receipt of gasoline is made outside this state for shipment into  
24 and subsequent sale within this state, the purchaser or receiver,  
25 other than a refiner, pipeline terminal operator, or marine ter-  
26 minal operator, shall make the prepayment required by this  
27 section directly to the department. Prepayments shall be made at

1 a cents per gallon rate determined by the department and shall be  
2 based on ~~4%~~ 6% of the statewide average retail price of a  
3 gallon of self-serve ~~leaded~~ UNLEADED regular gasoline as deter-  
4 mined and certified by the department rounded up to the nearest  
5 1/10 of 1 cent. A person who makes prepayments direct to the  
6 department shall make those prepayments according to the schedule  
7 in subsection (5).

8 (2) The rate of prepayment applied pursuant to subsection  
9 (1) shall be determined every 6 months by the department unless  
10 the department certifies that the change in the statewide average  
11 retail price of a gallon of self-serve ~~leaded~~ UNLEADED regular  
12 gasoline has been less than 10% during the 6-month period.  
13 However, the rate shall be determined not less than annually.

14 (3) A person subject to tax under this act who makes prepay-  
15 ment to another person as required by this section may claim an  
16 estimated prepayment credit on its regular monthly return filed  
17 pursuant to section 6. The credit shall be for prepayments made  
18 during the month in which the return is required and shall be  
19 based upon the difference between prepayments made in the immedi-  
20 ately preceding month and collections of prepaid tax received  
21 from sales or transfers. A sale or transfer for which collection  
22 of prepaid tax is due the taxpayer ~~shall be~~ IS subject to a bad  
23 debt deduction under section 4i, whether or not the sale or  
24 transfer is a sale at retail. The credit shall not be reduced  
25 because of actual shrinkage. A taxpayer who does not, in the  
26 ordinary course of business sell gasoline in each month of the  
27 year, may, with the approval of the department, base the initial

1 prepayment deduction in each tax year on prepayments made in a  
2 month other than the immediately preceding month. ~~Estimated~~  
3 ~~prepayment credits claimed with the return due in January 1984~~  
4 ~~shall be based on the taxpayer's retail sales of gasoline in~~  
5 ~~December 1983.~~ The difference in actual prepayments shall be  
6 reconciled on the annual return in accordance with procedures  
7 prescribed by the department.

8 (4) At the option of the taxpayer the estimated prepayment  
9 credit may be claimed on the return required to be filed under  
10 Act No. 150 of the Public Acts of 1927, being sections 207.101 to  
11 207.202 of the Michigan Compiled Laws, in lieu of a claim for the  
12 credit on the return required to be filed under section 6.  
13 Prepayments claimed on the motor fuel tax return shall be based  
14 on the difference in the prepayments made in the immediately pre-  
15 ceding month and collections of prepaid tax received from sales  
16 or transfer and shall be for prepayments made in the month in  
17 which the return is due. A taxpayer electing an option under  
18 this subsection shall be entitled to a deduction under section 4i  
19 as permitted by subsection (3). ~~Prepayments claimed on the~~  
20 ~~motor fuel tax return due in January 1984 shall be based, at the~~  
21 ~~option of the taxpayer, on retail sales for December 1983, or the~~  
22 ~~number of gallons for which motor fuel tax is due for December~~  
23 ~~1983.~~ Amounts credited pursuant to this section shall not be  
24 deducted from amounts required to be credited to the Michigan  
25 transportation fund pursuant to section 18b of Act No. 150 of the  
26 Public Acts of 1927, being section 207.118b of the Michigan  
27 Compiled Laws. The department may establish procedures for the



1 election of claims under subsection (3) and this subsection to  
2 avoid duplication of claims.

3 (5) Notwithstanding the other provisions for the payment and  
4 remitting of tax due under this act, a refiner, pipeline terminal  
5 operator, or marine terminal operator shall account for and remit  
6 to the department the prepayments received pursuant to this sec-  
7 tion in accordance with the following schedule:

8 (a) On or before the twenty-fifth of each month, prepayments  
9 received after the end of the preceding month and before the six-  
10 teenth of the month in which the prepayments are made.

11 (b) On or before the tenth of each month ~~other than January~~  
12 ~~1984,~~ payments received after the fifteenth and before the end  
13 of the preceding month.

14 (6) A refiner, pipeline terminal operator, or marine termi-  
15 nal operator who fails to remit prepayments made by a purchaser  
16 or receiver of gasoline ~~shall be~~ IS subject to the penalties  
17 provided by Act No. 122 of the Public Acts of 1941, being sec-  
18 tions 205.1 to ~~205.30~~ 205.31 of the Michigan Compiled Laws.

19 (7) The refiner, pipeline terminal operator, or marine ter-  
20 minal operator shall not receive a deduction under section 4 for  
21 receiving and remitting prepayments from a purchaser or receiver  
22 pursuant to this section.

23 (8) The purchaser or receiver of gasoline who makes prepay-  
24 ments ~~shall~~ IS not ~~be~~ subject to further liability for the  
25 amount of the prepayment if the refiner, pipeline terminal opera-  
26 tor, or marine terminal operator fails to remit the prepayment.

1       ~~-(9) On or before January 1, 1985, the department shall make~~  
 2 ~~a report to the chairpersons of the house taxation and senate~~  
 3 ~~finance committees outlining the procedures it has implemented or~~  
 4 ~~intends to implement to detect the underpayment or nonpayment of~~  
 5 ~~gasoline sales tax.~~

6       (9) ~~-(10)~~ As used in this section:

7       (a) "Marine terminal operator" means a person who stores  
 8 gasoline at a boat terminal transfer defined as a dock, a tank,  
 9 or equipment contiguous to a dock or a tank, including equipment  
 10 used in the unloading of gasoline from a ship and in transferring  
 11 the gasoline to a tank pending wholesale bulk reshipment.

12       (b) "Pipeline terminal operator" means a person who stores  
 13 gasoline in tanks and equipment used in receiving and storing  
 14 gasoline from interstate and intrastate pipelines pending whole-  
 15 sale bulk reshipment.

16       (c) "Purchase" or "shipment" does not include an exchange of  
 17 gasoline, or an exchange transaction, between refiners, pipeline  
 18 terminal operators, or marine terminal operators.

19       (d) "Refiner" means a person who manufactures or produces  
 20 gasoline by any process involving substantially more than the  
 21 blending of gasoline.

22       ~~-(11) This section shall take effect January 1, 1984.~~

23       Sec. 23. (1) ~~No~~ A person engaged in the business of sell-  
 24 ing tangible personal property at retail shall NOT advertise or  
 25 hold out to the public in any manner, directly or indirectly,  
 26 that the tax ~~herein~~ imposed UNDER THIS ACT is not considered as  
 27 an element in the price to the consumer. ~~Nothing contained in~~

~~1 this act shall be deemed to~~ THIS ACT DOES NOT prohibit any  
~~2 taxpayer from reimbursing himself OR HERSELF by adding to his~~  
~~3 THE sale price any tax levied hereunder~~ BY THIS ACT. ~~Since~~  
~~4 the following brackets will result in collection of sales taxes~~  
~~5 which bear a reasonable relationship to the amount of taxes~~  
~~6 required to be paid to the state under the terms hereof, the~~

7 (2) THE following brackets shall be used by retailers in  
 8 determining amounts to be added to sales prices for reimbursement  
 9 purposes: —

10 Amount of Sale	11 Tax
12 1 cent to <del>12</del> 10 cents.....	0
13 <del>13</del> 11 cents to <del>31</del> 24 cents.....	1 cent
14 <del>32</del> 25 cents to <del>54</del> 41 cents.....	2 cents
15 <del>55</del> 42 cents to <del>81</del> 58 cents.....	3 cents
16 <del>82</del> 59 cents to <del>\$1.08</del> 74 CENTS.....	4 cents
17 <del>\$1.09</del> 75 CENTS to <del>\$1.35</del> 91 CENTS.....	5 cents
18 <del>\$1.36</del> 92 CENTS to <del>\$1.62</del> 99 CENTS.....	6 cents
19 FOR \$1.00 AND EACH MULTIPLE OF \$1.00, 6% OF THE SALE PRICE.	

~~20 On each further addition of 25 cents or any part thereof to the~~  
~~21 selling price, 1 additional cent. No other~~

22 (3) A person other than the state may NOT enrich himself OR  
 23 HERSELF or gain any benefit from the collection or payment of  
~~24 such~~ THE tax. ~~nor shall~~ THE use of the above brackets DOES  
 25 NOT relieve the retailer from liability for payment of the full  
 amount of the tax levied by this act.

1       Sec. 25. (1) All sums of money received and collected under  
2 this act shall be deposited by the department in the state  
3 treasury to the credit of the general fund, except as provided in  
4 this section.

5       (2) Fifteen percent of the collections OF THE TAX IMPOSED AT  
6 A RATE OF 4% shall be distributed to cities, villages, and town-  
7 ships pursuant to the state revenue sharing act of 1971, Act  
8 No. 140 of the Public Acts of 1971, being sections 141.901 to  
9 141.921 of the Michigan Compiled Laws.

10       (3) Sixty percent of the collections OF THE TAX IMPOSED AT A  
11 RATE OF 4% shall be ~~transferred to~~ DEPOSITED IN the state  
12 school aid fund ~~created by~~ ESTABLISHED IN section 11 of article  
13 IX of the state constitution of 1963 and distributed as provided  
14 by law. IN ADDITION, ALL OF THE COLLECTIONS OF THE TAX IMPOSED  
15 AT THE ADDITIONAL RATE OF 2% BEGINNING JULY 17, 1993 SHALL BE  
16 DEPOSITED IN THE STATE SCHOOL AID FUND.

17       (4) For the fiscal year ending September 30, 1988 and each  
18 fiscal year ~~thereafter~~ ENDING AFTER SEPTEMBER 30, 1988, of the  
19 25% of the collections of the general sales tax imposed AT A RATE  
20 OF 4% directly or indirectly on fuels sold to propel motor vehi-  
21 cles upon highways, on the sale of motor vehicles, and on the  
22 sale of the parts and accessories of motor vehicles by new and  
23 used car businesses, used car businesses, accessory dealer busi-  
24 nesses, and gasoline station businesses as classified by the  
25 department of treasury remaining after the allocations and dis-  
26 tributions are made pursuant to subsections (2) and (3), the

1 following amounts shall be deposited each year into the  
2 respective funds:

3 (a) Not less than 27.9% to the comprehensive transportation  
4 fund. However, for the fiscal year ending September 30, 1991  
5 only, the amount to be deposited in the comprehensive transporta-  
6 tion fund shall be reduced by \$1,500,000.00.

7 (b) The balance to the state general fund.

8 (5) After the allocations and distributions are made pursu-  
9 ant to subsections (2) and (3), an amount equal to the collec-  
10 tions of the tax imposed AT A RATE OF 4% by this act from the  
11 sale at retail of computer software as defined in section 1 shall  
12 be deposited in the Michigan health initiative fund created in  
13 section 5911 of the public health code, Act No. 368 of the Public  
14 Acts of 1978, being section 333.5911 of the Michigan Compiled  
15 Laws and shall be considered in addition to, and is not intended  
16 as a replacement for any other money appropriated to the depart-  
17 ment of public health. The funds deposited in the Michigan  
18 health initiative fund on an annual basis shall not be less than  
19 \$9,000,000.00 or more than \$12,000,000.00.

20 (6) The balance in the state general fund shall be disbursed  
21 only on an appropriation or appropriations by the legislature.

22 Section 2. This amendatory act shall not take effect unless  
23 House Joint Resolution G of the 87th Legislature becomes a part  
24 of the state constitution of 1963 as provided in section 1 of  
25 article XII of the state constitution of 1963.

1       Section 3. This amendatory act shall not take effect unless  
2 all of the following bills of the 87th Legislature are enacted  
3 into law:

4       (a) Senate Bill No. 1.

5       (b) Senate Bill No. 601.

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7       (c) Senate Bill No. 600.

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9       (d) Senate Bill No. 599.

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11       (e) Senate Bill No. 602.

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13       (f) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
14 no. 01371'93).

15       (g) Senate Bill No. 596.

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17       (h) Senate Bill No. 597.

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19       (i) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
20 no. 03859'93).