



# SENATE BILL No. 599

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

A bill to amend sections 3, 4f, 6, and 21 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, sections 4f and 6 as amended by Act No. 17 of the Public Acts of 1993, and section 21 as amended by Act No. 260 of the Public Acts of 1987, being sections 205.93, 205.94f, 205.96, and 205.111 of the Michigan Compiled Laws; and to add section 4e.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 3, 4f, 6, and 21 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, sections 4f and 6 as amended by Act No. 17  
4 of the Public Acts of 1993, and section 21 as amended by Act  
5 No. 260 of the Public Acts of 1987, being sections 205.93,

1 205.94f, 205.96, and 205.111 of the Michigan Compiled Laws, are  
2 amended and section 4e is added to read as follows:

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

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

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

10 (3) The following transfers or purchases are not subject to  
11 use tax:

12 (a) When the transferee or purchaser is the spouse, mother,  
13 father, brother, sister, or child of the transferor.

14 (b) When the transfer is a gift to a beneficiary in the  
15 administration of an estate.

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

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

1 insurance company reacquires ownership from the company as part  
2 of the settlement of a claim.

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

9 SEC. 4E. THE USE OF TANGIBLE PERSONAL PROPERTY PURCHASED BY  
10 PERSONS ENGAGED IN THE BUSINESS OF CONSTRUCTING, ALTERING,  
11 REPAIRING, OR IMPROVING REAL ESTATE FOR OTHERS IS EXEMPT FROM THE  
12 TAX IMPOSED AT THE ADDITIONAL RATE OF 2% BY THE AMENDATORY ACT  
13 THAT ADDED THIS SECTION IF THE TANGIBLE PERSONAL PROPERTY IS PUR-  
14 CHASED, MANUFACTURED, FABRICATED, OR ASSEMBLED BY THOSE PERSONS  
15 AND IS AFFIXED AND MADE A STRUCTURAL PART OF REAL ESTATE OR USED  
16 AND COMPLETELY CONSUMED, IN THE FULFILLMENT OF A SINGLE CONTRACT  
17 THAT IS EITHER A FIXED PRICE CONTRACT ENTERED INTO BEFORE MAY 1,  
18 1993 AND NOT SUBJECT TO CHANGE OR MODIFICATION OR A CONTRACT  
19 ENTERED INTO PURSUANT TO THE OBLIGATION OF A FORMAL WRITTEN BID  
20 MADE AND ACCEPTED BEFORE MAY 1, 1993 THAT CANNOT BE ALTERED OR  
21 WITHDRAWN.

22 Sec. 4f. (1) In computing the amount of tax payments  
23 required for any month of a seller not subject to section 6(2)  
24 who collects the tax from the purchaser under the provisions of  
25 this act, the seller who collects the tax from a purchaser may  
26 deduct the amount provided by subdivision (a) or (b), whichever  
27 is greater:

1 (a) If the tax that accrued to the state from the purchase  
2 of tangible personal property or services during the preceding  
3 month is remitted to the department on or before the seventh day  
4 of the month in which remittance is due, 0.75% of the tax col-  
5 lected AT A RATE OF 4% for the preceding monthly period, but not  
6 to exceed \$20,000.00 of the tax collected for that month. If the  
7 tax that accrued to the state from the purchase of tangible per-  
8 sonal property or services during the preceding month is remitted  
9 to the department after the seventh day of the month and on or  
10 before the fifteenth day of the month in which remittance is due,  
11 0.50% of the tax collected AT A RATE OF 4% for the preceding  
12 monthly period, but not to exceed \$15,000.00 of the tax collected  
13 for that month.

14 (b) The tax collected AT A RATE OF 4% on \$150.00 of taxable  
15 purchase price for the preceding monthly period or a prorated  
16 portion of \$150.00 of the taxable purchase price for the preced-  
17 ing month if the seller engaged in business for less than a  
18 month.

19 (2) In computing the amount of tax levied under this act for  
20 any month, a seller who collects the tax from the purchaser under  
21 this act and who is subject to section 6(2) may deduct the amount  
22 provided in this subsection. If the tax that is due to the state  
23 from the purchase of tangible personal property or services is  
24 remitted to the department on or before the eleventh day of the  
25 month in which remittance is due, 0.75% of the tax due AT A RATE  
26 OF 4% but not to exceed \$20,000.00 of the tax due for that month  
27 may be deducted. If the tax that is due to the state from the

1 purchase of tangible personal property or services is remitted to  
2 the department after the eleventh day and on or before the eighth-  
3 teenth day of the month in which remittance is due, 0.50% of the  
4 tax due AT A RATE OF 4% but not to exceed \$15,000.00 of the tax  
5 due for that month may be deducted.

6 (3) A deduction ~~shall~~ IS not ~~be~~ allowed under this sec-  
7 tion for payments of taxes made to the department after the day  
8 the person is required to pay ~~, pursuant to section 6,~~ the tax  
9 imposed by this act PURSUANT TO SECTION 6.

10 (4) If, pursuant to section 6(3), the commissioner of reve-  
11 nue prescribes the filing of returns and the payment of the tax  
12 for periods in excess of 1 month, a seller who collects the tax  
13 from the purchaser ~~shall be~~ IS entitled to a deduction from the  
14 tax collections remitted to the department for the extended pay-  
15 ment period that is equivalent to the deduction allowed under  
16 subsection (1) or (2) for monthly periods.

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

20 Sec. 6. (1) Every person storing, using, or consuming tan-  
21 gible personal property or services, the storage, use, or con-  
22 sumption of which is subject to the tax imposed by the act when  
23 the tax was not paid to a seller, and every seller collecting the  
24 tax from the purchaser, unless otherwise prescribed by the  
25 department under the provisions of subsection (2) or (3), on or  
26 before the fifteenth day of each calendar month shall file with  
27 the department a return for the preceding calendar month in a

1 form prescribed by the department, showing the price of each  
2 purchase of tangible personal property or services during the  
3 preceding month, and other information the department considers  
4 necessary for the proper administration of this act. At the same  
5 time each person shall pay to the department the amount of tax  
6 imposed by this act with respect to the purchases covered by the  
7 return. A return shall be signed by the person liable for the  
8 tax or his or her duly authorized agent. If the return is pre-  
9 pared by a person other than the taxpayer, the return shall also  
10 be signed by the person and show his or her address.

11 (2) Beginning July 1, 1993, each seller that had a total tax  
12 liability after subtracting the tax payments made to the secre-  
13 tary of state, under this act or the sales tax act, Act No. 167  
14 of the Public Acts of 1933, being sections 205.51 to 205.78 of  
15 the Michigan Compiled Laws, in the immediately preceding calendar  
16 year of \$480,000.00 FOR 1992, \$590,000.00 FOR 1993, OR  
17 \$720,000.00 FOR 1994 AND AFTER 1994, or more on or before the  
18 eighteenth of each month shall remit to the department, by an  
19 electronic funds transfer method approved by the commissioner of  
20 revenue, an amount equal to 95% of the ~~seller's~~ TAXPAYER'S  
21 liability under this act for the same month in the immediately  
22 preceding calendar year, OR 95% OF THE ACTUAL LIABILITY FOR THE  
23 CURRENT MONTH BEING REPORTED, plus a reconciliation payment equal  
24 to the difference between the tax liability determined for the  
25 immediately preceding month minus the amount of tax previously  
26 paid for that month.

1       (3) The commissioner of revenue, when considered necessary  
2 to insure payment of the tax or to provide a more efficient  
3 administration, may require and prescribe the filing of returns  
4 and payment of the tax for other than monthly periods.

5       (4) If a corporation licensed under this act fails for any  
6 reason to file the required returns or to pay the tax due, any of  
7 its officers having control or supervision of, or charged with  
8 the responsibility for, making the returns and payments is per-  
9 sonally liable for the failure. The dissolution of a corporation  
10 does not discharge an officer's liability for a prior failure of  
11 the corporation to make a return or remit the tax due.

12       (5) The tax imposed under this act shall accrue to the state  
13 on the last day of each calendar month.

14       Sec. 21. (1) Except as provided in subsection (2), all  
15 money received and collected under the provisions of this act  
16 shall be deposited by the department, in the state treasury to  
17 the credit of the general fund, to be disbursed only by appropri-  
18 ations by the legislature.

19       (2) THE COLLECTIONS FROM THE USE TAX IMPOSED AT THE ADDI-  
20 TIONAL RATE OF 2% BEGINNING JULY 17, 1993 SHALL BE DEPOSITED IN  
21 THE STATE SCHOOL AID FUND ESTABLISHED IN SECTION 11 OF ARTICLE IX  
22 OF THE STATE CONSTITUTION OF 1963.

23       Section 2. This amendatory act shall not take effect unless  
24 House Joint Resolution G of the 87th Legislature becomes a part  
25 of the state constitution of 1963 as provided in section 1 of  
26 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. 602.

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11       (e) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
12 no. 01371'93).

13       (f) Senate Bill No. 598.

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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).