



HOUSE BILL No. 5303

October 25, 1995, Introduced by Rep. McManus and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 4a of Act No. 167 of the Public Acts of 1933, entitled as amended "General sales tax act," as amended by Act No. 156 of the Public Acts of 1994, being section 205.54a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4a of Act No. 167 of the Public Acts of
2 1933, as amended by Act No. 156 of the Public Acts of 1994, being
3 section 205.54a of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 4a. A person subject to tax under this act may exclude
6 from the amount of the gross proceeds used for the computation of
7 the tax, sales of tangible personal property:

8 (a) Not for resale, and when not operated for profit, to a
9 school, hospital, or home for the care and maintenance of

1 children or aged persons operated by an entity of government, a
2 regularly organized church, religious, or fraternal organization,
3 a veterans' organization, or a corporation incorporated under the
4 laws of the state, if the income or benefit from the operation
5 does not inure, in whole or in part, to an individual or private
6 shareholder, directly or indirectly, and if the activities of the
7 entity or agency are carried on exclusively for the benefit of
8 the public at large and are not limited to the advantage, inter-
9 ests, and benefits of its members or any restricted group. At
10 the time of the transfer of this tangible personal property, the
11 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 operation of the institution or agency and
14 that the institution or agency qualifies as an exempt entity
15 under this subdivision. The statement shall be accepted by all
16 courts as prima facie evidence of the exemption and the statement
17 shall provide that if the claim for tax exemption is disallowed
18 the transferee will reimburse the transferor for the amount of
19 tax involved. A sale of tangible personal property to a parent
20 cooperative preschool is exempt from taxation under this act. As
21 used in this subdivision, "parent cooperative preschool" means a
22 nonprofit, nondiscriminatory educational institution, maintained
23 as a community service and administered by parents of children
24 currently enrolled in the preschool, that provides an educational
25 and developmental program for children younger than compulsory
26 school age, that provides an educational program for parents,
27 including active participation with children in preschool

1 activities, that is directed by qualified preschool personnel,
2 and that is licensed by the department of social services pursu-
3 ant to Act No. 116 of the Public Acts of 1973, ~~as amended,~~
4 being sections 722.111 to 722.128 of the Michigan Compiled Laws.

5 (b) Not for resale to a regularly organized church or house
6 of religious worship, except the following:

7 (i) Sales in activities that are mainly commercial
8 enterprises.

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

13 (c) To bona fide enrolled students, of food by a school or
14 other educational institution not operated for profit.

15 (d) Affixed to and made a structural part of real estate
16 excepted from the definition of "sale at retail" under section
17 1(1)(c):

18 (e) To persons, of a vessel designated for commercial use of
19 registered tonnage of 500 tons or more, if produced upon special
20 order of the purchaser, and bunker and galley fuel, provisions,
21 supplies, maintenance, and repairs for the exclusive use of the
22 vessel engaged in interstate commerce.

23 (f) To persons engaged in a business enterprise and using or
24 consuming the tangible personal property in the tilling, plant-
25 ing, caring for, or harvesting of the things of the soil; in the
26 breeding, raising, or caring for livestock, poultry, or
27 horticultural products, including transfers of livestock,

1 poultry, or horticultural products for further growth; or in the
2 direct gathering of fish, by net, line, or otherwise only by an
3 owner-operator of the business enterprise, not including a
4 charter fishing business enterprise. This exemption includes
5 agricultural land tile, which means fired clay or perforated
6 plastic tubing used as part of a subsurface drainage system for
7 land, and subsurface irrigation pipe, if the land tile or irriga-
8 tion pipe is used in the production of agricultural products as a
9 business enterprise. At the time of the transfer of this tangi-
10 ble personal property, the transferee shall sign a statement, in
11 a form approved by the department, stating that the property is
12 to be used or consumed in connection with the production of
13 horticultural or agricultural products as a business enterprise,
14 or in connection with fishing as an owner-operator business
15 enterprise. The statement shall be accepted by all courts as
16 prima facie evidence of the exemption. This exemption includes a
17 portable grain bin, which means a structure that is used or is to
18 be used to shelter grain and that is designed to be disassembled
19 without significant damage to its component parts. This exemp-
20 tion does not include transfers of food, fuel, clothing, or any
21 similar tangible personal property for personal living or human
22 consumption. This exemption does not include tangible personal
23 property permanently affixed and becoming a structural part of
24 real estate.

25 (g) To the following:

26 (i) An industrial processor for use or consumption in
27 industrial processing. Property used or consumed in industrial

1 processing does not include tangible personal property
2 permanently affixed and becoming a structural part of real
3 estate; office furniture, office supplies, and administrative
4 office equipment; or vehicles licensed and titled for use on
5 public highways, other than a specially designed vehicle,
6 together with parts, used to mix and agitate materials added at a
7 plant or jobsite in the concrete manufacturing process.

8 Industrial processing does not include receiving and storage of
9 raw materials purchased or extracted by the user or consumer; or
10 the preparation of food and beverages by a retailer for retail
11 sale. As used in this subdivision, "industrial processor" means
12 a 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 this service shall
18 not be excluded under this subdivision except as provided in sub-
19 paragraph (ii).

20 (ii) A person, whether or not the person is an industrial
21 processor, if the tangible personal property is a computer used
22 in operating industrial processing equipment; equipment used in a
23 computer assisted manufacturing system; equipment used in a com-
24 puter assisted design or engineering system integral to an indus-
25 trial process; or a subunit or electronic assembly comprising a
26 component in a computer integrated industrial processing system.

1 (h) To persons, of a copyrighted motion picture film or a
2 newspaper or periodical admitted under federal postal laws and
3 regulations effective September 1, 1985 as second-class mail
4 matter or as a controlled circulation publication or qualified to
5 accept legal notices for publication in this state, as defined by
6 law, or any other newspaper or periodical of general circulation,
7 established not less than 2 years, and published not less than
8 once a week. Tangible personal property used or consumed, and
9 not becoming a component part of a copyrighted motion picture
10 film, newspaper, or periodical, except that portion or percentage
11 of tangible personal property used or consumed in producing an
12 advertising supplement that becomes a component part of a newspa-
13 per or periodical is subject to tax. For purposes of this subdivi-
14 sion, tangible personal property that becomes a component part
15 of a newspaper or periodical and consequently not subject to tax
16 includes an advertising supplement inserted into and circulated
17 with a newspaper or periodical that is otherwise exempt from tax
18 under this subdivision, if the advertising supplement is deliv-
19 ered directly to the newspaper or periodical by a person other
20 than the advertiser, or the advertising supplement is printed by
21 the newspaper or periodical.

22 (i) To persons licensed to operate commercial radio or tele-
23 vision stations if the property is used in the origination or
24 integration of the various sources of program material for com-
25 mercial radio or television transmission. This subdivision does
26 not include a vehicle licensed and titled for use on public

1 highways or property used in the transmission to or receiving
2 from an artificial satellite.

3 (j) A hearing aid, contact lenses if prescribed for a spe-
4 cific disease that precludes the use of eyeglasses, or any other
5 apparatus, device, or equipment used to replace or substitute for
6 a part of the human body, or used to assist the disabled person
7 to lead a reasonably normal life if the tangible personal prop-
8 erty is purchased on a written prescription or order issued by a
9 licensed health professional as defined by section 21005 of the
10 public health code, Act No. 368 of the Public Acts of 1978, being
11 section 333.21005 of the Michigan Compiled Laws, or eyeglasses
12 prescribed or dispensed to correct the person's vision by an oph-
13 thalmologist, optometrist, or optician.

14 (k) To persons for use or consumption in the rendition of a
15 service, the use or consumption of which is taxable under section
16 3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937,
17 ~~as amended,~~ being section 205.93a of the Michigan Compiled
18 Laws, except that this exemption is limited to the tangible per-
19 sonal property located on the premises of the subscriber and the
20 necessary exchange equipment.

21 (l) Not for resale of a vehicle to a Michigan nonprofit cor-
22 poration organized exclusively to provide a community with ambu-
23 lance or fire department services.

24 (m) To inmates in a penal or correctional institution pur-
25 chased with scrip issued and redeemed by the institution.

1 (n) To or for the use of students enrolled in any part of a
2 kindergarten through twelfth grade program, of textbooks sold by
3 a public or nonpublic school.

4 (o) Installed as a component part of a water pollution con-
5 trol facility for which a tax exemption certificate is issued
6 pursuant to ~~Act No. 222 of the Public Acts of 1966, as amended,~~
7 ~~being sections 323.351 to 323.358~~ PART 37 (WATER POLLUTION CON-
8 TROL FACILITIES; TAX EXEMPTION) OF THE NATURAL RESOURCES AND
9 ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF
10 1994, BEING SECTIONS 324.3701 TO 324.3708 of the Michigan
11 Compiled Laws, or an air pollution control facility for which a
12 tax exemption certificate is issued pursuant to ~~Act No. 250 of~~
13 ~~the Public Acts of 1965, as amended, being sections 336.1 to~~
14 ~~336.8~~ PART 59 (AIR POLLUTION CONTROL FACILITY; TAX EXEMPTION) OF
15 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT
16 NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.5901 TO
17 324.5908 of the Michigan Compiled Laws.

18 (p) To a purchaser of a new motor vehicle purchased before
19 January 1, 1993 if the purchaser qualifies for a special regis-
20 tration under section 226(12) of the Michigan vehicle code, Act
21 No. 300 of the Public Acts of 1949, being section 257.226 of the
22 Michigan Compiled Laws, and the vehicle is purchased through a
23 country determined by the department to be providing a like or
24 complete exemption for the purchase of a new motor vehicle to be
25 removed from that country.