



# SENATE BILL No. 285

February 16, 1995, Introduced by Senators SHUGARS, NORTH, GEAKE, MILLER, GAST, CISKY, STEIL, CARL, BOUCHARD, ROGERS, GOUGEON, DINGELL, BYRUM, CHERRY, SCHWARZ, BENNETT, BERRYMAN, MC MANUS and PETERS and referred to the Committee on Finance.

A bill to amend section 2 of Act No. 94 of the Public Acts of 1937, entitled as amended "Use tax act," as amended by Act No. 506 of the Public Acts of 1988, being section 205.92 of the Michigan Compiled Laws; and to add sections 8 and 8a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 94 of the Public Acts of  
2 1937, as amended by Act No. 506 of the Public Acts of 1988, being  
3 section 205.92 of the Michigan Compiled Laws, is amended and sec-  
4 tions 8 and 8a are added to read as follows:

5 Sec. 2. As used in this act:

6 (a) "Person" means an individual, firm, partnership, joint  
7 venture, association, social club, fraternal organization,  
8 municipal or private corporation whether or not organized for

1 profit, company, estate, trust, receiver, trustee, syndicate, the  
2 United States, this state, county, or any other group or combina-  
3 tion acting as a unit, and the plural as well as the singular  
4 number, unless the intention to give a more limited meaning is  
5 disclosed by the context.

6 (b) "Use" means the exercise of a right or power over tangi-  
7 ble personal property incident to the ownership of that property  
8 including transfer of the property in a transaction where posses-  
9 sion is given.

10 (c) "Storage" means a keeping or retention OF SOMETHING in  
11 this state for any purpose after losing its interstate  
12 character.

13 (d) "Seller" means the person from whom a purchase is made  
14 and includes every person selling tangible personal property or  
15 services for storage, use, or other consumption in this state.  
16 If, in the opinion of the department, it is necessary for the  
17 efficient administration of this act to regard a salesperson,  
18 representative, peddler, or canvasser as the agent of a dealer,  
19 distributor, supervisor, or employer under whom the person oper-  
20 ates or from whom he or she obtains tangible personal property or  
21 services ~~—~~ sold by him or her for storage, use, or other con-  
22 sumption in this state, irrespective of whether or not he or she  
23 is making the sales on his or her own behalf or on behalf of the  
24 dealer, distributor, supervisor, or employer, the department may  
25 so consider him or her, and may consider the dealer, distributor,  
26 supervisor, or employer as the seller for the purpose of this  
27 act.

1 (e) "Purchase" means ~~acquired~~ THE ACQUISITION for a  
2 consideration, whether the acquisition ~~was~~ IS effected by a  
3 transfer of title, of possession, or of both, or a license to use  
4 or consume; whether the transfer ~~was~~ IS absolute or condition-  
5 al, and by whatever means the transfer ~~was~~ IS effected; and  
6 whether consideration is a price or rental in money, or by way of  
7 exchange or barter.

8 (f) "Price" means the aggregate value in money of anything  
9 paid or delivered, or promised to be paid or delivered, by a con-  
10 sumer to a seller in the consummation and complete performance of  
11 the transaction by which tangible personal property or services  
12 ~~were~~ ARE purchased or rented for storage, use, or other con-  
13 sumption in this state, without a deduction for the cost of the  
14 property sold, cost of materials used, labor or service cost,  
15 interest or discount paid, or any other expense. The price of  
16 tangible personal property, for affixation to real estate, with-  
17 drawn by a construction contractor from inventory available for  
18 sale to others or made available by publication or price list as  
19 a finished product for sale to others is the finished goods  
20 inventory value of the property. For contracts entered into  
21 after March 31, 1989, if a construction contractor manufactures,  
22 fabricates, or assembles tangible personal property ~~prior to~~  
23 BEFORE affixing it to real estate, the price of the property  
24 ~~shall be~~ IS equal to the sum of the materials cost of the prop-  
25 erty and the cost of labor to manufacture, fabricate, or assemble  
26 the property but ~~shall~~ DOES not include the cost of labor to  
27 cut, bend, assemble, or attach property at the site of affixation

1 to real estate. For the purposes of the preceding sentence, for  
2 property withdrawn by a construction contractor from inventory  
3 available for sale to others or made available by publication or  
4 price list as a finished product for sale to others, the materi-  
5 als cost of the property means the finished goods inventory value  
6 of the property. For purposes of this subdivision, "manufacture"  
7 means to convert or condition tangible personal property by  
8 changing the form, composition, quality, combination, or charac-  
9 ter of the property, ~~and~~ and "fabricate" means to modify or pre-  
10 pare tangible personal property for affixation or assembly.

11 ~~Beginning January 1, 1984 and until July 3, 1984, if a purchase~~  
12 ~~is made of or a qualified purchase agreement is entered into for~~  
13 ~~the purchase of a motor vehicle or trailer coach with an exchange~~  
14 ~~of a used motor vehicle or a used trailer coach or if a purchase~~  
15 ~~is made of or a qualified purchase agreement is entered into for~~  
16 ~~the purchase of a titled watercraft with an exchange of a used~~  
17 ~~titled watercraft, the price shall be the difference between the~~  
18 ~~agreed upon value of the motor vehicle, trailer coach, or titled~~  
19 ~~watercraft used as part payment of the purchase price and the~~  
20 ~~full retail price of the motor vehicle, trailer coach, or titled~~  
21 ~~watercraft being purchased. A qualified purchase agreement means~~  
22 ~~a purchase agreement presented to the secretary of state at the~~  
23 ~~time the vehicle is registered in this state for a transfer of~~  
24 ~~ownership that shall occur on or before February 1, 1985.~~

25 ~~Beginning July 3, 1984, the~~ THE price of a motor vehicle,  
26 ~~trailer coach,~~ AIRCRAFT, RECREATIONAL VEHICLE, SELF-PROPELLED  
27 PIECE OF HEAVY MACHINERY OR EQUIPMENT, or titled watercraft

1 ~~shall be~~ IS the full retail price of the motor vehicle,  
2 ~~trailer coach,~~ SELF-PROPELLED PIECE OF HEAVY MACHINERY OR  
3 EQUIPMENT, AIRCRAFT, RECREATIONAL VEHICLE, or titled watercraft  
4 being purchased MINUS THE AGREED-UPON VALUE OF ANY MOTOR VEHICLE,  
5 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, AIRCRAFT,  
6 RECREATIONAL VEHICLE, OR TITLED WATERCRAFT USED AS PART PAYMENT  
7 OF THE PURCHASE PRICE. The tax collected by the seller from the  
8 consumer or lessee under this act shall not be considered as a  
9 part of the price, but shall be considered as a tax collection  
10 for the benefit of the state, and a person other than the state  
11 shall not derive a benefit from the collection or payment of this  
12 tax. A price does not include an assessment imposed pursuant to  
13 either the convention and tourism marketing act, Act No. 383 of  
14 the Public Acts of 1980, being sections 141.881 to 141.889 of the  
15 Michigan Compiled Laws, or the community convention ~~and~~ OR  
16 tourism marketing act, Act No. 395 of the Public Acts of 1980,  
17 being sections 141.871 to 141.880 of the Michigan Compiled Laws,  
18 ~~which~~ THAT was added to charges for rooms or lodging otherwise  
19 subject, pursuant to section 3a, to tax under this act. Price  
20 does not include specific charges for technical support or for  
21 adapting or modifying prewritten, standard, or canned computer  
22 software programs to a purchaser's needs or equipment if the  
23 charges are separately stated and identified. ~~Tax~~ THE TAX  
24 imposed pursuant to this act shall not be computed or collected  
25 on rental receipts ~~when~~ IF the tangible personal property  
26 rented or leased has previously been subjected to a Michigan  
27 sales or use tax when purchased by the lessor.

1 (g) "Consumer" means the person who has purchased tangible  
2 personal property or services for storage, use, or other consump-  
3 tion in this state and includes a person acquiring tangible per-  
4 sonal property ~~when~~ IF engaged in the business of constructing,  
5 altering, repairing, or improving the real estate of others.

6 (h) "Business" means all activities engaged in by a person  
7 or caused to be engaged in by a person with the object of gain,  
8 benefit, or advantage, either direct or indirect.

9 (i) "Department" means the revenue division of the depart-  
10 ment of treasury.

11 (j) "Tax" includes all taxes, interest, or penalties levied  
12 under this act.

13 (k) "Tangible personal property" includes ~~beginning~~  
14 ~~December 28, 1987,~~ computer software offered for general use by  
15 the public or software modified or adapted to the user's needs or  
16 equipment by the seller, only if the software is available from a  
17 seller of software on an as is basis or as an end product without  
18 modification or adaptation. Tangible personal property does not  
19 include computer software originally designed for the exclusive  
20 use and special needs of the purchaser. As used in this subdivi-  
21 sion, "computer software" means a set of statements or instruc-  
22 tions that when incorporated in a machine usable medium is  
23 capable of causing a machine or device having information pro-  
24 cessing capabilities to indicate, perform, or achieve a particu-  
25 lar function, task, or result.

26 (l) "RECREATIONAL VEHICLE" INCLUDES A TRAILER COACH,  
27 CONVENTIONAL TRAVEL TRAILER, PARK TRAILER, FIFTH-WHEEL TRAVEL

1 TRAILER, FOLDING CAMPING TRAILER, TRUCK CAMPER, MOTOR HOME, VAN  
2 CAMPER, VAN CONVERSION, OR MULTIUSE VEHICLE.

3 SEC. 8. (1) UPON PURCHASE OF A MOTOR VEHICLE, AIRCRAFT,  
4 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
5 TIONAL VEHICLE, OR TITLED WATERCRAFT BY A NEW DEALER OR A USED OR  
6 SECONDHAND DEALER THAT IS NOT PART OF A TRANSACTION IN WHICH THE  
7 DEALER ALSO SELLS A MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE  
8 OF HEAVY MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED  
9 WATERCRAFT AND PROVIDES THE STATEMENT SPECIFYING THE AMOUNT CRED-  
10 ITED THE BUYER FOR A TRADE-IN AS REQUIRED BY SECTION 251 OF THE  
11 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,  
12 BEING SECTION 257.251 OF THE MICHIGAN COMPILED LAWS, THE DEALER  
13 SHALL PROVIDE THE OWNER OF THE MOTOR VEHICLE, AIRCRAFT,  
14 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
15 TIONAL VEHICLE, OR TITLED WATERCRAFT WHO IS SELLING THE MOTOR  
16 VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY OR  
17 EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATERCRAFT TO THE  
18 DEALER WITH A CERTIFICATE, SIGNED BY EACH PARTY, SPECIFYING ALL  
19 OF THE FOLLOWING INFORMATION:

20 (A) THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE  
21 MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY  
22 OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATERCRAFT.

23 (B) THE NAME AND ADDRESS OF EACH PARTY.

24 (C) THE DEALER'S LICENSE NUMBER.

25 (D) THE PRICE PAID FOR THE MOTOR VEHICLE, AIRCRAFT,  
26 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT,  
27 RECREATIONAL VEHICLE, OR TITLED WATERCRAFT.

1 (E) THE DATE OF PURCHASE.

2 (F) A STATEMENT INDICATING THAT THE SELLER MAY PRESENT THE  
3 CERTIFICATE WHEN PURCHASING ANOTHER MOTOR VEHICLE, AIRCRAFT,  
4 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
5 TIONAL VEHICLE, OR TITLED WATERCRAFT WITHIN 90 DAYS AFTER THE  
6 DATE SPECIFIED ON THE CERTIFICATE FROM A PERSON LICENSED UNDER  
7 THIS ACT.

8 (2) A PERSON RECEIVING A CERTIFICATE PRESCRIBED BY THIS SEC-  
9 TION UPON THE SALE OF HIS OR HER MOTOR VEHICLE, AIRCRAFT,  
10 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
11 TIONAL VEHICLE, OR TITLED WATERCRAFT TO A NEW DEALER OR A USED OR  
12 SECONDHAND DEALER MAY PRESENT THE CERTIFICATE TO A PERSON SUBJECT  
13 TO TAX UNDER THIS ACT UPON PURCHASING ANOTHER MOTOR VEHICLE, AIR-  
14 CRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, REC-  
15 REATIONAL VEHICLE, OR TITLED WATERCRAFT WITHIN 90 DAYS AFTER THE  
16 DATE ON THE CERTIFICATE AS THE DATE THE PERSON SOLD HIS OR HER  
17 MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY  
18 OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATERCRAFT TO A  
19 DEALER. A CERTIFICATE PRESENTED AT A SALE SHALL REDUCE THE TAX  
20 ON THE MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY  
21 MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATER-  
22 CRAFT FOR WHICH THE CERTIFICATE WAS PRESENTED. EXCEPT AS PRO-  
23 VIDED BY THIS SECTION, A CERTIFICATE ISSUED PURSUANT TO THIS SEC-  
24 TION IS NOT TRANSFERABLE.

25 (3) A PERSON SUBJECT TO TAX UNDER THIS ACT WHO, UPON MAKING  
26 A SALE AT RETAIL OF A MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED  
27 PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR

1 TITLED WATERCRAFT, RECEIVES FROM THE PURCHASER A COMPLETED  
2 CERTIFICATE THAT EVIDENCES A SALE OF A MOTOR VEHICLE, AIRCRAFT,  
3 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
4 TIONAL VEHICLE, OR TITLED WATERCRAFT BY THE PURCHASER TO A NEW  
5 DEALER OR A USED OR SECONDHAND DEALER WITHIN 90 DAYS BEFORE THE  
6 SALE SHALL NOTE THE DATE OF THE SALE FOR WHICH THE CERTIFICATE  
7 WAS PRESENTED UPON THE CERTIFICATE AND FORWARD THE CERTIFICATE  
8 WITH ANY TAX LIABILITY OF THE TAXPAYER ON THE SALE AT RETAIL FOR  
9 WHICH THE CERTIFICATE WAS PRESENTED.

10 (4) THE DEPARTMENT SHALL PRESCRIBE AND DISTRIBUTE CERTIFI-  
11 CATES TO BE USED FOR PURPOSES OF THIS SECTION.

12 (5) FOR PURPOSES OF SECTION 27 OF ACT NO. 122 OF THE PUBLIC  
13 ACTS OF 1941, BEING SECTION 205.27 OF THE MICHIGAN COMPILED LAWS,  
14 AND THE PENALTIES PROVIDED BY THAT SECTION, A CERTIFICATE UNDER  
15 THIS SECTION IS CONSIDERED A RETURN.

16 SEC. 8A. (1) UPON THE PURCHASE FROM A PRIVATE INDIVIDUAL OF  
17 A USED OR SECONDHAND MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED  
18 PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR  
19 TITLED WATERCRAFT BY AN INDIVIDUAL WHO IS NOT A NEW DEALER, OR A  
20 USED OR SECONDHAND DEALER AND UPON THE REQUEST OF THE SELLER,  
21 BOTH PARTIES TO THE TRANSACTION SHALL SIGN A CERTIFICATE TO BE  
22 PROVIDED BY THE SELLER SPECIFYING ALL OF THE FOLLOWING:

23 (A) THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE  
24 MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY  
25 OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATERCRAFT.

26 (B) THE NAME AND ADDRESS OF EACH PARTY.

1 (C) THE PRICE PAID FOR THE MOTOR VEHICLE, AIRCRAFT,  
2 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT,  
3 RECREATIONAL VEHICLE, OR TITLED WATERCRAFT.

4 (D) THE DATE OF PURCHASE.

5 (E) A STATEMENT INDICATING THAT WHEN PURCHASING ANOTHER  
6 MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY  
7 OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATERCRAFT WITHIN  
8 90 DAYS AFTER THE DATE SPECIFIED ON THE CERTIFICATE FROM A PERSON  
9 LICENSED AND SUBJECT TO TAX UNDER THIS ACT, THE SELLER OF THE  
10 USED MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY  
11 MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATER-  
12 CRAFT MAY PRESENT THE CERTIFICATE TO THE TAXPAYER TO REDUCE THE  
13 TAX ON THE MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY  
14 MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATER-  
15 CRAFT FOR WHICH THE CERTIFICATE WAS PRESENTED.

16 (2) A PERSON RECEIVING A CERTIFICATE PURSUANT TO SUBSECTION  
17 (1) UPON THE SALE OF HIS OR HER MOTOR VEHICLE, AIRCRAFT,  
18 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREA-  
19 TIONAL VEHICLE, OR TITLED WATERCRAFT TO ANOTHER INDIVIDUAL MAY  
20 PRESENT THE CERTIFICATE TO A PERSON SUBJECT TO TAX UNDER THIS ACT  
21 UPON PURCHASING ANOTHER MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED  
22 PIECE OF HEAVY MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR  
23 TITLED WATERCRAFT WITHIN 90 DAYS AFTER THE DATE OF SALE OF THE  
24 USED MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF HEAVY  
25 MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED WATER-  
26 CRAFT SPECIFIED ON THE CERTIFICATE. A CERTIFICATE PRESENTED AT A  
27 SALE SHALL REDUCE THE TAX ON THE MOTOR VEHICLE, AIRCRAFT,

1 SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT,  
2 RECREATIONAL VEHICLE, OR TITLED WATERCRAFT FOR WHICH THE CERTIFI-  
3 CATE WAS PRESENTED. EXCEPT AS PROVIDED BY THIS SECTION, A CER-  
4 TIFICATE ISSUED PURSUANT TO THIS SECTION IS NOT TRANSFERABLE.

5 (3) IF A PERSON SUBJECT TO TAX UNDER THIS ACT MAKES A SALE  
6 AND RECEIVES FROM THE PURCHASER A CERTIFICATE EVIDENCING A PRIOR  
7 SALE OF A USED MOTOR VEHICLE, AIRCRAFT, SELF-PROPELLED PIECE OF  
8 HEAVY MACHINERY OR EQUIPMENT, RECREATIONAL VEHICLE, OR TITLED  
9 WATERCRAFT, THE TAXPAYER SHALL NOTE THE DATE OF THE PRIOR SALE ON  
10 THE CERTIFICATE. IF THE SALE OF THE USED MOTOR VEHICLE, AIR-  
11 CRAFT, SELF-PROPELLED PIECE OF HEAVY MACHINERY OR EQUIPMENT, REC-  
12 REATIONAL VEHICLE, OR TITLED WATERCRAFT OCCURRED WITHIN 90 DAYS  
13 BEFORE THE SALE AT RETAIL, THE TAXPAYER SHALL FORWARD THE CERTIF-  
14 ICATE WITH ANY TAX LIABILITY OF THE TAXPAYER ON THE SALE FOR  
15 WHICH THE CERTIFICATE WAS PRESENTED TO THE DEPARTMENT.

16 (4) THE DEPARTMENT SHALL PRESCRIBE AND DISTRIBUTE CERTIFI-  
17 CATES TO BE USED FOR PURPOSES OF THIS SECTION. CERTIFICATES  
18 SHALL BE AVAILABLE AT ALL OFFICES OF THE SECRETARY OF STATE.

19 (5) FOR PURPOSES OF SECTION 27 OF ACT NO. 122 OF THE PUBLIC  
20 ACTS OF 1941, BEING SECTION 205.27 OF THE MICHIGAN COMPILED LAWS,  
21 AND THE PENALTIES PROVIDED BY THAT SECTION, A CERTIFICATE UNDER  
22 THIS SECTION IS CONSIDERED A RETURN.