

HOUSE BILL No. 6052

September 16, 1998, Introduced by Rep. Profit and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 39c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 39C. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 1998, A QUALIFIED TAXPAYER THAT OPERATES AT LEAST 1 MANUFACTURING
3 FACILITY IN THIS STATE MAY CLAIM A CLEAN MANUFACTURING INVESTMENT
4 CREDIT CALCULATED UNDER SUBSECTION (2) AND A MATERIAL SUBSTITU-
5 TION EXPENSE CREDIT CALCULATED UNDER SUBSECTION (5) AGAINST THE
6 TAX IMPOSED UNDER THIS ACT IN THE YEAR IN WHICH THE PRODUCTION
7 PROCESS REDESIGN OR OPERATIONAL IMPROVEMENT THAT FORMS THE BASIS
8 OF THE CLEAN MANUFACTURING INVESTMENT CREDIT OR MATERIAL SUBSTI-
9 TUTION EXPENSE CREDIT FIRST BECOMES OPERATIONAL AT THE QUALIFIED
10 TAXPAYER'S MANUFACTURING FACILITY IN THIS STATE.

1 (2) A CLEAN MANUFACTURING INVESTMENT CREDIT UNDER THIS
2 SECTION IS CALCULATED AS FOLLOWS:

3 (A) DETERMINE THE CERTIFIED COST OF THE CLEAN MANUFACTURING
4 INVESTMENT.

5 (B) MULTIPLY THE COST DETERMINED UNDER SUBDIVISION (A) BY
6 30%.

7 (C) MULTIPLY THE AMOUNT DETERMINED UNDER SUBDIVISION (B) BY
8 EITHER OF THE FOLLOWING AS APPROPRIATE:

9 (i) THE PERCENTAGE, AS CERTIFIED BY THE BOARD, BY WHICH
10 TOXIC MATERIALS ARE REDUCED BY MEANS OF THE CLEAN MANUFACTURING
11 INVESTMENT.

12 (ii) THE PERCENTAGE, AS CERTIFIED BY THE BOARD, BY WHICH
13 ENVIRONMENTAL WASTE IS REDUCED BY MEANS OF THE CLEAN MANUFACTUR-
14 ING INVESTMENT.

15 (3) A CLEAN MANUFACTURING INVESTMENT CREDIT IS ALLOWED ONLY
16 AS APPROVED BY THE BOARD AND FOR AN INVESTMENT MADE VOLUNTARILY
17 BY THE QUALIFIED TAXPAYER AND IS NOT ALLOWED FOR AN INVESTMENT
18 THAT IS THE RESULT OF AN ENFORCEMENT ACTION, A NEGOTIATION SET-
19 TLEMENT, OR AN ORDER OF A FEDERAL OR STATE AGENCY OR COURT.

20 (4) THE BOARD SHALL CERTIFY THAT A QUALIFIED TAXPAYER'S
21 CLEAN MANUFACTURING INVESTMENT MAY BE USED TO CALCULATE A CREDIT
22 UNDER THIS SECTION IF THE BOARD DETERMINES THAT, BEFORE THE QUAL-
23 IFIED TAXPAYER IMPLEMENTS A PRODUCTION PROCESS REDESIGN OR AN
24 OPERATIONAL IMPROVEMENT, THE QUALIFIED TAXPAYER OBTAINED VERIFI-
25 CATION FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY OF ALL OF THE
26 FOLLOWING:

1 (A) THE CLEAN MANUFACTURING INVESTMENT WILL REDUCE THE USE
2 OF TOXIC MATERIAL OR REDUCE AN ENVIRONMENTAL WASTE.

3 (B) THE QUALIFIED TAXPAYER'S ESTIMATES OF THE PERCENTAGE OF
4 REDUCTION IN THE USE OF A TOXIC MATERIAL OR PRODUCTION OF ENVI-
5 RONMENTAL WASTE THAT WILL RESULT FROM THE CLEAN MANUFACTURING
6 INVESTMENT.

7 (C) THE QUALIFIED TAXPAYER'S ESTIMATES OF THE COST THAT WILL
8 BE INCURRED TO IMPLEMENT PRODUCTION PROCESS REDESIGN OR OPER-
9 ATIONAL IMPROVEMENT THAT WILL REDUCE THE USE OF A TOXIC MATERIAL
10 OR AN ENVIRONMENTAL WASTE BASED ON A MEASUREMENT OF TOXIC MATERI-
11 ALS OR ENVIRONMENTAL WASTE PER UNIT OF PRODUCTION AND IN CON-
12 FORMITY WITH STANDARDS APPROVED BY THE DEPARTMENT OF ENVIRONMEN-
13 TAL QUALITY.

14 (D) THE QUALIFIED TAXPAYER MADE OUT-OF-POCKET PAYMENTS.

15 (E) THE CLEAN MANUFACTURING INVESTMENT RESULTED DIRECTLY
16 FROM THE PROCESS REDESIGN OR OPERATIONAL IMPROVEMENTS THAT ARE
17 USED IN A SPECIFIC PRODUCTION PROCESS AT A MANUFACTURING FACILITY
18 AND THAT REDUCED THE USE OF TOXIC MATERIALS OR ENVIRONMENTAL
19 WASTE BY MEANS OF A CLEAN MANUFACTURING INVESTMENT BASED ON A
20 MEASUREMENT OF THE AMOUNT OF TOXIC MATERIALS OR ENVIRONMENTAL
21 WASTE PER UNIT OF PRODUCTION AND IN CONFORMITY WITH STANDARDS
22 APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

23 (F) THE QUALIFIED TAXPAYER HAS APPLIED TO THE BOARD FOR CER-
24 TIFICATION OF ELIGIBILITY FOR THE CREDITS ALLOWED UNDER THIS
25 SECTION.

26 (5) A MATERIAL SUBSTITUTION EXPENSE CREDIT UNDER THIS
27 SECTION IS CALCULATED AS FOLLOWS:

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1 (A) DETERMINE THE ADDITIONAL COST TO PURCHASE A MATERIAL
2 THAT IS SUBSTITUTED FOR A TOXIC MATERIAL.

3 (B) MULTIPLY THE AMOUNT DETERMINED UNDER SUBDIVISION (A) BY
4 30%.

5 (6) THE BOARD SHALL CERTIFY THAT A QUALIFIED TAXPAYER'S
6 MATERIAL SUBSTITUTION EXPENSE MAY BE USED TO CALCULATE A CREDIT
7 UNDER THIS SECTION IF THE BOARD DETERMINES ALL OF THE FOLLOWING:

8 (A) BEFORE THE QUALIFIED TAXPAYER BEGAN THE MATERIAL SUBSTI-
9 TUTION PROJECT, THE QUALIFIED TAXPAYER OBTAINED VERIFICATION FROM
10 THE DEPARTMENT OF ENVIRONMENTAL QUALITY OF ALL OF THE FOLLOWING:

11 (i) THE MATERIAL SUBSTITUTE IS NONTOXIC OR LESS TOXIC THAN
12 THE TOXIC MATERIAL FOR WHICH IT IS SUBSTITUTED.

13 (ii) THE MATERIAL SUBSTITUTION EXPENSE WILL RESULT IN A
14 REDUCTION IN THE USE OF A TOXIC MATERIAL BASED ON A MEASUREMENT
15 OF THE REDUCTION IN TOXICITY IN CONFORMITY WITH THE GUIDELINES
16 ESTABLISHED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

17 (iii) THERE IS AN ESTIMATE BY THE QUALIFIED TAXPAYER OF ANY
18 ADDITIONAL COST THAT THE QUALIFIED TAXPAYER WILL INCUR TO SUBSTI-
19 TUTE A MATERIAL FOR THE TOXIC MATERIAL.

20 (B) THE QUALIFIED TAXPAYER PAID OUT-OF-POCKET EXPENSES FOR
21 MATERIAL SUBSTITUTION IN THE TAX YEAR.

22 (C) THE MATERIAL SUBSTITUTION EXPENSE DIRECTLY RESULTED FROM
23 THE ADDITIONAL COSTS OF SUBSTITUTING A MATERIAL FOR A TOXIC MATE-
24 RIAL IN A SPECIFIC PRODUCTION PROCESS AT A MANUFACTURING
25 FACILITY.

26 (D) THE QUALIFIED TAXPAYER APPLIED TO THE BOARD FOR THE
27 CREDIT CERTIFICATION ON A FORM PRESCRIBED BY THE BOARD.

1 (E) THE QUALIFIED TAXPAYER HAS NOT RECEIVED CERTIFICATION
2 UNDER THIS SECTION FOR THE SAME MATERIAL SUBSTITUTION EXPENSE OR
3 PROJECT.

4 (F) THE QUALIFIED TAXPAYER PAID ALL APPLICABLE FEES.

5 (7) THE BOARD SHALL CERTIFY THAT A QUALIFIED TAXPAYER'S
6 MATERIAL SUBSTITUTION EXPENSE IS ELIGIBLE FOR THE CREDIT UNDER
7 THIS SECTION IF THE QUALIFIED TAXPAYER PROVIDED ALL INFORMATION
8 THAT THE BOARD DETERMINED WAS NECESSARY TO CALCULATE THE MATERIAL
9 SUBSTITUTION EXPENSE CREDIT UNDER THIS SECTION AND TO DETERMINE
10 WHETHER A MATERIAL SUBSTITUTION EXPENSE IS ELIGIBLE FOR USE TO
11 CALCULATE A CREDIT UNDER THIS SECTION.

12 (8) TOTAL CREDITS FOR ALL QUALIFIED TAXPAYERS UNDER THIS
13 SECTION SHALL NOT EXCEED \$10,000,000.00 FOR EACH STATE FISCAL
14 YEAR AND SHALL NOT EXCEED \$200,000.00 FOR ANY 1 QUALIFIED TAX-
15 PAYER FOR A TAX YEAR.

16 (9) THE CLEAN MANUFACTURING CREDIT AND MATERIAL SUBSTITUTION
17 CREDIT BOARD IS ESTABLISHED IN THE DEPARTMENT OF ENVIRONMENTAL
18 QUALITY. THE BOARD SHALL DETERMINE ELIGIBILITY FOR THE CREDITS
19 ALLOWED UNDER THIS SECTION AND ASSURE THAT THE TOTAL AMOUNT OF
20 THE CREDITS ALLOWED UNDER THIS SECTION DO NOT EXCEED THE MAXIMUM
21 STATEWIDE CREDIT AMOUNT AS PROVIDED IN SUBSECTION (8). THE BOARD
22 SHALL CONSIST OF ALL OF THE FOLLOWING MEMBERS:

23 (A) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
24 OR HIS OR HER DESIGNEE.

25 (B) THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND INDUSTRY
26 SERVICES OR HIS OR HER DESIGNEE.

1 (C) THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND BUDGET
2 OR HIS OR HER DESIGNEE.

3 (D) THE DIRECTOR OF THE DEPARTMENT OF TREASURY OR HIS OR HER
4 DESIGNEE.

5 (E) THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH OR
6 HIS OR HER DESIGNEE.

7 (10) THE BOARD SHALL APPROVE APPLICATIONS FOR CREDITS
8 ALLOWED UNDER THIS SECTION IN THE ORDER IN WHICH APPLICATIONS ARE
9 RECEIVED IN EACH STATE FISCAL YEAR. IF THE TOTAL CREDITS APPLIED
10 FOR IN A STATE FISCAL YEAR EXCEED THE MAXIMUM AMOUNT FOR THE
11 STATE FISCAL YEAR AS PROVIDED IN SUBSECTION (8), APPLICATIONS
12 RECEIVED AFTER THE MAXIMUM AMOUNT HAS BEEN AWARDED SHALL NOT BE
13 APPROVED. THE BOARD MAY GIVE PREFERENCE IN A SUBSEQUENT STATE
14 FISCAL YEAR TO APPLICATIONS THAT ARE RECEIVED AFTER THE MAXIMUM
15 AMOUNT UNDER SUBSECTION (8) IS REACHED IN A PREVIOUS YEAR.

16 (11) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX
17 YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED BY THIS
18 SECTION EXCEED THE QUALIFIED TAXPAYER'S TAX LIABILITY FOR THE TAX
19 YEAR, THAT PORTION THAT EXCEEDS THE TAX LIABILITY FOR THE TAX
20 YEAR SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET
21 TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 2 YEARS OR UNTIL USED
22 UP, WHICHEVER OCCURS FIRST.

23 (12) AS USED IN THIS SECTION:

24 (A) "BOARD" MEANS THE CLEAN MANUFACTURING CREDIT AND MATE-
25 RIAL SUBSTITUTION CREDIT BOARD ESTABLISHED IN SUBSECTION (9).

26 (B) "CLEAN MANUFACTURING INVESTMENT" MEANS AN EXPENDITURE
27 THAT MEETS ALL OF THE FOLLOWING CRITERIA:

1 (i) REDUCES THE USE OF A TOXIC MATERIAL OR REDUCES AN
2 ENVIRONMENTAL WASTE.

3 (ii) WILL REDUCE THE USE OF A TOXIC MATERIAL BY MEANS OF
4 CLEAN MANUFACTURING BASED ON A DEPARTMENT OF ENVIRONMENTAL QUAL-
5 ITY APPROVED MEASUREMENT OF THE TOXICITY AND AMOUNT OF TOXIC
6 MATERIALS OR ENVIRONMENTAL WASTE PER UNIT OF PRODUCTION.

7 (C) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT HAS BOARD
8 CERTIFICATION OF ALL OF THE FOLLOWING:

9 (i) THAT THE TAXPAYER IS ELIGIBLE FOR THE CREDITS ALLOWED
10 UNDER THIS SECTION.

11 (ii) A DESCRIPTION OF THE ACTIVITY OR EXPENSE THAT IS THE
12 BASIS FOR THE CREDIT AND CERTIFICATION THAT THE ACTIVITY OR
13 EXPENSE IS ELIGIBLE AS A BASIS FOR THE CREDIT ALLOWED UNDER THIS
14 SECTION.

15 (iii) THE TOTAL AMOUNT OF THE EXPENDITURE THAT IS ELIGIBLE
16 FOR THE CREDIT.

17 (iv) FOR A CLEAN MANUFACTURING INVESTMENT CREDIT, THE PER-
18 CENTAGE OF THE ENVIRONMENTAL WASTE OR TOXIC MATERIAL REDUCED BY
19 MEANS OF THE CLEAN MANUFACTURING INVESTMENT.