

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

**Introduced by Reps. Kowall, Patterson, Basham, Minore, Richardville, O'Neil, Sanborn, Meyer, Bishop,
Vear, Woronchak, Ehardt, Faunce, Scranton, Vander Veen, Gilbert, Richner, Stewart and Daniels**

ENROLLED HOUSE BILL No. 4540

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 17 (MCL 205.67), as amended by 2000 PA 242.

The People of the State of Michigan enact:

Sec. 17. (1) A person liable for any tax imposed under this act shall keep accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading, and all pertinent documents in a form the department requires. If an exemption from sales tax is claimed because the sale is for resale or for any of the other exemptions or deductions granted under this act, a record shall be kept of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the type of exemption claimed, the amount of the sale, and, if that person has a sales tax license, the sales tax license number. If a taxpayer maintains the records required under this section, and accepts an exemption certificate from the buyer in good faith on a form prescribed by the department, the taxpayer is not liable for collection of the unpaid tax after a finding that the sale did not qualify for exemption under this act. As used in this section, "good faith" means that the taxpayer received a completed and signed exemption certificate from the buyer. A person knowingly making a sale of tangible personal property for the purpose of resale at retail to another person not licensed under this act is liable for the tax imposed under this act unless the transaction is exempt under the provisions of section 4k. These records must be retained for a period of 4 years after the tax imposed under this act to which the records apply is due or as otherwise provided by law. If the department considers it necessary, the department may require a person, by notice served upon that person, to make a return, render under oath certain statements, or keep certain records the department considers sufficient to show whether or not that person is liable for tax under this act. If the taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department may assess the amount of the tax due from the taxpayer based on information that is available or that may become available to the department. That assessment is considered prima facie correct for the purpose of this act and the burden of proof of refuting the assessment is upon the taxpayer. For purposes of this section, exemption certificate includes a blanket exemption certificate on a form prescribed by the department that covers all exempt transfers between the taxpayer and the buyer for a period of 4 years or for a period of less than 4 years as stated on the blanket exemption certificate if that period is agreed to by the buyer and taxpayer.

(2) For a period of not less than 30 days or more than 60 days that ends before September 1, 2000, as designated by the department, a person liable for any tax imposed under this act is exempt from the good faith requirement described in subsection (1) if that person submits to the department copies of all sales tax exemption certificates from buyers described in subsection (1).

(3) A buyer eligible to claim any of the exemptions or deductions granted under this act shall register on a form prescribed by the department. If a buyer fails to satisfy the registration requirement 6 months after either notice to register from the department or becoming eligible to claim an exemption or deduction under this act, whichever is later, the buyer is not entitled to submit an exemption certificate claiming an exemption or deduction otherwise granted by this act until the buyer registers. After the department has issued notice to register, a nonregistered buyer shall be allowed to claim exemption in a refund claim that is filed with the department within the time permitted under section 27a of 1941 PA 122, MCL 205.27a.

(4) If all information described in subsection (1) is otherwise maintained in routine business records, the good faith exemption certificate requirement in subsection (1) does not apply to the following:

(a) A person licensed by the Michigan liquor control commission as a wholesaler for purposes of sales of alcoholic liquor to another person licensed by the Michigan liquor control commission. As used in this subsection, "alcoholic liquor", "authorized distribution agent", and "wholesaler" mean those terms as defined in the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(b) The Michigan liquor control commission or a person certified by the commission as an authorized distribution agent for purposes of the sale and distribution of alcoholic liquor to a person licensed by the Michigan liquor control commission.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.