

**SUBSTITUTE FOR  
HOUSE BILL NO. 5555**

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending sections 1, 1a, 4g, 4k, 4bb, 12, 18, and 21 (MCL  
205.51, 205.51a, 205.54g, 205.54k, 205.54bb, 205.62, 205.68, and  
205.71), sections 1, 4g, and 4k as amended and sections 12, 18, and  
21 as added by 2004 PA 173, section 1a as amended by 2006 PA 434,  
and section 4bb as added by 2004 PA 301; and to repeal acts and  
parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) As used in this act:

2       (a) "Person" means an individual, firm, partnership, joint  
3       venture, association, social club, fraternal organization,  
4       municipal or private corporation whether organized for profit or  
5       not, company, estate, trust, receiver, trustee, syndicate, the  
6       United States, this state, county, or any other group or

1 combination acting as a unit, and includes the plural as well as  
2 the singular number, unless the intention to give a more limited  
3 meaning is disclosed by the context.

4 (b) "Sale at retail" or "retail sale" means a sale, lease, or  
5 rental of tangible personal property for any purpose other than for  
6 resale, sublease, or subrent.

7 (c) "Gross proceeds" means sales price.

8 (d) "Sales price" means the total amount of consideration,  
9 including cash, credit, property, and services, for which tangible  
10 personal property or services are sold, leased, or rented, valued  
11 in money, whether received in money or otherwise, and applies to  
12 the measure subject to sales tax. Sales price includes the  
13 following subparagraphs (i) through ~~(vi)~~ ~~(vii)~~ and excludes  
14 subparagraphs ~~(vii)~~ ~~(viii)~~ through ~~(viii)~~ ~~(x)~~ :

15 (i) Seller's cost of the property sold.

16 (ii) Cost of materials used, labor or service cost, interest,  
17 losses, costs of transportation to the seller, taxes imposed on the  
18 seller other than taxes imposed by this act, and any other expense  
19 of the seller.

20 (iii) Charges by the seller for any services necessary to  
21 complete the sale, other than the following:

22 (A) An amount received or billed by the taxpayer for  
23 remittance to the employee as a gratuity or tip, if the gratuity or  
24 tip is separately identified and itemized on the guest check or  
25 billed to the customer.

26 (B) Labor or service charges involved in maintenance and  
27 repair work on tangible personal property of others if separately

1 itemized.

2 (iv) Delivery charges incurred or to be incurred before the  
3 completion of the transfer of ownership of tangible personal  
4 property **SUBJECT TO THE TAX LEVIED UNDER THIS ACT** from the seller  
5 to the purchaser. **A SELLER IS NOT LIABLE UNDER THIS ACT FOR**  
6 **DELIVERY CHARGES ALLOCATED TO THE DELIVERY OF EXEMPT PROPERTY.**

7 (v) Installation charges incurred or to be incurred before the  
8 completion of the transfer of ownership of tangible personal  
9 property from the seller to the purchaser.

10 (vi) Credit for any trade-in.

11 (vii) **EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (x),**  
12 **CONSIDERATION RECEIVED BY THE SELLER FROM THIRD PARTIES IF ALL OF**  
13 **THE FOLLOWING CONDITIONS ARE MET:**

14 (A) **THE SELLER ACTUALLY RECEIVES CONSIDERATION FROM A PARTY**  
15 **OTHER THAN THE PURCHASER AND THE CONSIDERATION IS DIRECTLY RELATED**  
16 **TO A PRICE REDUCTION OR DISCOUNT ON THE SALE.**

17 (B) **THE SELLER HAS AN OBLIGATION TO PASS THE PRICE REDUCTION**  
18 **OR DISCOUNT THROUGH TO THE PURCHASER.**

19 (C) **THE AMOUNT OF THE CONSIDERATION ATTRIBUTABLE TO THE SALE**  
20 **IS FIXED AND DETERMINABLE BY THE SELLER AT THE TIME OF THE SALE OF**  
21 **THE ITEM TO THE PURCHASER.**

22 (D) **ONE OF THE FOLLOWING CRITERIA IS MET:**

23 (I) **THE PURCHASER PRESENTS A COUPON, CERTIFICATE, OR OTHER**  
24 **DOCUMENTATION TO THE SELLER TO CLAIM A PRICE REDUCTION OR DISCOUNT**  
25 **WHERE THE COUPON, CERTIFICATE, OR DOCUMENTATION IS AUTHORIZED,**  
26 **DISTRIBUTED, OR GRANTED BY A THIRD PARTY WITH THE UNDERSTANDING**  
27 **THAT THE THIRD PARTY WILL REIMBURSE ANY SELLER TO WHOM THE COUPON,**

1 CERTIFICATE, OR DOCUMENTATION IS PRESENTED.

2 (II) THE PURCHASER IDENTIFIES HIMSELF OR HERSELF TO THE SELLER  
3 AS A MEMBER OF A GROUP OR ORGANIZATION ENTITLED TO A PRICE  
4 REDUCTION OR DISCOUNT. A PREFERRED CUSTOMER CARD THAT IS AVAILABLE  
5 TO ANY PATRON DOES NOT CONSTITUTE MEMBERSHIP IN A GROUP OR  
6 ORGANIZATION.

7 (III) THE PRICE REDUCTION OR DISCOUNT IS IDENTIFIED AS A THIRD  
8 PARTY PRICE REDUCTION OR DISCOUNT ON THE INVOICE RECEIVED BY THE  
9 PURCHASER OR ON A COUPON, CERTIFICATE, OR OTHER DOCUMENTATION  
10 PRESENTED BY THE PURCHASER.

11 (viii) ~~(vii)~~—Interest, financing, or carrying charges from credit  
12 extended on the sale of personal property or services, if the  
13 amount is separately stated on the invoice, bill of sale, or  
14 similar document given to the purchaser.

15 (ix) ~~(viii)~~—Any taxes legally imposed directly on the consumer  
16 that are separately stated on the invoice, bill of sale, or similar  
17 document given to the purchaser.

18 (x) BEGINNING JANUARY 1, 2000, EMPLOYEE DISCOUNTS THAT ARE  
19 REIMBURSED BY A THIRD PARTY ON SALES OF MOTOR VEHICLES.

20 (e) "Business" includes an activity engaged in by a person or  
21 caused to be engaged in by that person with the object of gain,  
22 benefit, or advantage, either direct or indirect.

23 (f) "Tax year" or "taxable year" means the fiscal year of the  
24 state or the taxpayer's fiscal year if permission is obtained by  
25 the taxpayer from the department to use the taxpayer's fiscal year  
26 as the tax period instead.

27 (g) "Department" means the department of treasury.

1 (h) "Taxpayer" means a person subject to a tax under this act.

2 (i) "Tax" includes a tax, interest, or penalty levied under  
3 this act.

4 (j) "Textiles" means goods that are made of or incorporate  
5 woven or nonwoven fabric, including, but not limited to, clothing,  
6 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,  
7 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor  
8 mops, floor mats, and thread. Textiles also include materials used  
9 to repair or construct textiles, or other goods used in the rental,  
10 sale, or cleaning of textiles.

11 (2) If the department determines that it is necessary for the  
12 efficient administration of this act to regard an unlicensed  
13 person, including a salesperson, representative, peddler, or  
14 canvasser as the agent of the dealer, distributor, supervisor, or  
15 employer under whom the unlicensed person operates or from whom the  
16 unlicensed person obtains the tangible personal property sold by  
17 the unlicensed person, irrespective of whether the unlicensed  
18 person is making sales on the unlicensed person's own behalf or on  
19 behalf of the dealer, distributor, supervisor, or employer, the  
20 department may so regard the unlicensed person and may regard the  
21 dealer, distributor, supervisor, or employer as making sales at  
22 retail at the retail price for the purposes of this act.

23 Sec. 1a. As used in this act:

24 (a) "Alcoholic beverage" means a beverage suitable for human  
25 consumption that contains 1/2 of 1% or more of alcohol by volume.

26 (b) "Computer" means an electronic device that accepts  
27 information in digital or similar form and manipulates it for a

1 result based on a sequence of instructions.

2 (c) "Computer software" means a set of coded instructions  
3 designed to cause a computer or automatic data processing equipment  
4 to perform a task.

5 (d) "Delivered electronically" means delivered from the seller  
6 to the purchaser by means other than tangible storage media.

7 (e) "Delivery charges" means charges by the seller for  
8 preparation and delivery to a location designated by the purchaser  
9 of tangible personal property or services. Delivery charges  
10 include, but are not limited to, transportation, shipping, postage,  
11 handling, crating, and packing. Beginning September 1, 2004,  
12 delivery charges do not include the charges for delivery of direct  
13 mail if the charges are separately stated on an invoice or similar  
14 billing document given to the purchaser. **IF A SHIPMENT INCLUDES**  
15 **BOTH EXEMPT PROPERTY AND TAXABLE PROPERTY, THE SELLER SHALL**  
16 **ALLOCATE THE DELIVERY CHARGE USING 1 OF THE FOLLOWING METHODS:**

17 (i) **MULTIPLY THE DELIVERY PRICE BY A FRACTION, THE NUMERATOR OF**  
18 **WHICH IS THE TOTAL SALES PRICES OF THE TAXABLE PROPERTY AND THE**  
19 **DENOMINATOR OF WHICH IS THE TOTAL SALES PRICES OF ALL PROPERTY IN**  
20 **THE SHIPMENT.**

21 (ii) **MULTIPLY THE DELIVERY PRICE BY A FRACTION, THE NUMERATOR**  
22 **OF WHICH IS THE TOTAL WEIGHT OF THE TAXABLE PROPERTY AND THE**  
23 **DENOMINATOR OF WHICH IS THE TOTAL WEIGHT OF ALL PROPERTY IN THE**  
24 **SHIPMENT.**

25 (f) "Dietary supplement" means any product, other than  
26 tobacco, intended to supplement the diet that is all of the  
27 following:

1           (i) Required to be labeled as a dietary supplement identifiable  
2 by the "supplemental facts" box found on the label as required by  
3 21 CFR 101.36.

4           (ii) Contains 1 or more of the following dietary ingredients:

5           (A) A vitamin.

6           (B) A mineral.

7           (C) An herb or other botanical.

8           (D) An amino acid.

9           (E) A dietary substance for use by humans to supplement the  
10 diet by increasing the total dietary intake.

11           (F) A concentrate, metabolite, constituent, extract, or  
12 combination of any ingredient listed in sub-subparagraphs (A)  
13 through (E).

14           (iii) Intended for ingestion in tablet, capsule, powder,  
15 softgel, gelcap, or liquid form, or if not intended for ingestion  
16 in 1 of those forms, is not represented as conventional food or for  
17 use as a sole item of a meal or of the diet.

18           (g) "Direct mail" means printed material delivered or  
19 distributed by United States mail or other delivery service to a  
20 mass audience or to addressees on a mailing list provided by the  
21 purchaser or at the direction of the purchaser when the cost of the  
22 items are not billed directly to the recipients, including tangible  
23 personal property supplied directly or indirectly by the purchaser  
24 to the direct mail seller for inclusion in the package containing  
25 the printed material, but not including multiple items of printed  
26 material delivered to a single address.

27           (h) "Drug" means a compound, substance, or preparation, or any

1 component of a compound, substance, or preparation, other than food  
2 or food ingredients, dietary supplements, or alcoholic beverages,  
3 intended for human use that is 1 or more of the following:

4 (i) Recognized in the official United States pharmacopoeia,  
5 official homeopathic pharmacopoeia of the United States, or  
6 official national formulary, or in any of their supplements.

7 (ii) Intended for use in the diagnosis, cure, mitigation,  
8 treatment, or prevention of disease.

9 (iii) Intended to affect the structure or any function of the  
10 body.

11 (i) "Durable medical equipment" means equipment for home use,  
12 other than mobility enhancing equipment, dispensed pursuant to a  
13 prescription, including **DURABLE MEDICAL EQUIPMENT** repair or  
14 replacement parts, ~~for that equipment,~~ that does all of the  
15 following:

16 (i) Can withstand repeated use.

17 (ii) Is primarily and customarily used to serve a medical  
18 purpose.

19 (iii) Is not useful generally to a person in the absence of  
20 illness or injury.

21 (iv) Is not worn in or on the body.

22 **(J) "DURABLE MEDICAL EQUIPMENT REPAIR OR REPLACEMENT PARTS"**  
23 **INCLUDES ALL COMPONENTS OR ATTACHMENTS USED IN CONJUNCTION WITH**  
24 **DURABLE MEDICAL EQUIPMENT.**

25 **(K)** ~~(j)~~ "Electronic" means relating to technology having  
26 electrical, digital, magnetic, wireless, optical, electromagnetic,  
27 or similar capabilities.

1            ~~(l)~~ ~~(k)~~—"Lease or rental" means any transfer of possession or  
2 control of tangible personal property for a fixed or indeterminate  
3 term for consideration and may include future options to purchase  
4 or extend. This definition applies only to leases and rentals  
5 entered into after September 1, 2004 and has no retroactive impact  
6 on leases and rentals that existed on that date. Lease or rental  
7 does not include the following **SUBPARAGRAPHS (i) THROUGH (iii) AND**  
8 **INCLUDES SUBPARAGRAPH (iv) :**

9            (i) A transfer of possession or control of tangible personal  
10 property under a security agreement or deferred payment plan that  
11 requires the transfer of title upon completion of the required  
12 payments.

13            (ii) A transfer of possession or control of tangible personal  
14 property under an agreement requiring transfer of title upon  
15 completion of the required payments and payment of an option price  
16 that does not exceed \$100.00 or 1% of the total required payments,  
17 whichever is greater.

18            (iii) The provision of tangible personal property along with an  
19 operator for a fixed or indeterminate period of time, where that  
20 operator is necessary for the equipment to perform as designed. To  
21 be necessary, an operator must do more than maintain, inspect, or  
22 set up the tangible personal property.

23            (iv) An agreement covering motor vehicles or trailers if the  
24 amount of consideration may be increased or decreased by reference  
25 to the amount realized upon sale or disposition of the property as  
26 defined in section 7701(h)(1) of the internal revenue code, 26 USC  
27 7701.

1           (M) ~~(l)~~—"Mobility enhancing equipment" means equipment, other  
2 than durable medical equipment or a motor vehicle or equipment on a  
3 motor vehicle normally provided by a motor vehicle manufacturer,  
4 dispensed pursuant to a prescription, including repair or  
5 replacement parts for that equipment, that is all of the following:

6           (i) Primarily and customarily used to provide or increase the  
7 ability to move from 1 place to another and is appropriate for use  
8 at home or on a motor vehicle.

9           (ii) Not generally used by a person with normal mobility.

10           (N) ~~(m)~~—"Prescription" means an order, formula, or recipe,  
11 issued in any form of oral, written, electronic, or other means of  
12 transmission by a licensed physician or other health professional  
13 as defined in section 3501 of the insurance code of 1956, 1956 PA  
14 218, MCL 500.3501. **FOR A HEARING AID, PRESCRIPTION INCLUDES AN**  
15 **ORDER, INSTRUCTION, OR DIRECTION OF A HEARING AID DEALER OR**  
16 **SALESPERSON LICENSED UNDER ARTICLE 13 OF THE OCCUPATIONAL CODE,**  
17 **1980 PA 299, MCL 339.1301 TO 339.1309.**

18           (O) ~~(n)~~—"Prewritten computer software" means computer  
19 software, including prewritten upgrades, that is delivered by any  
20 means and that is not designed and developed by the author or other  
21 creator to the specifications of a specific purchaser. Prewritten  
22 computer software includes the following:

23           (i) Any combination of 2 or more prewritten computer software  
24 programs or portions of prewritten computer software programs.

25           (ii) Computer software designed and developed by the author or  
26 other creator to the specifications of a specific purchaser if it  
27 is sold to a person other than that specific purchaser.

1           (iii) The modification or enhancement of prewritten computer  
2 software or portions of prewritten computer software where the  
3 modification or enhancement is designed and developed to the  
4 specifications of a specific purchaser unless there is a  
5 reasonable, separately stated charge or an invoice or other  
6 statement of the price is given to the purchaser for the  
7 modification or enhancement. If a person other than the original  
8 author or creator modifies or enhances prewritten computer  
9 software, that person is considered to be the author or creator of  
10 only that person's modifications or enhancements.

11           (P) ~~(e)~~—"Prosthetic device" means a replacement, corrective,  
12 or supportive device, other than contact lenses and dental  
13 prosthesis, dispensed pursuant to a prescription, including repair  
14 or replacement parts for that device, worn on or in the body to do  
15 1 or more of the following:

16           (i) Artificially replace a missing portion of the body.

17           (ii) Prevent or correct a physical deformity or malfunction of  
18 the body.

19           (iii) Support a weak or deformed portion of the body.

20           (Q) ~~(p)~~—"Tangible personal property" means personal property  
21 that can be seen, weighed, measured, felt, or touched or that is in  
22 any other manner perceptible to the senses and includes  
23 electricity, water, gas, steam, and prewritten computer software.

24           (R) ~~(q)~~—"Tobacco" means cigarettes, cigars, chewing or pipe  
25 tobacco, or any other item that contains tobacco.

26           Sec. 4g. (1) The following are exempt from the tax under this  
27 act:

1 (a) Sales of drugs for human use that can only be legally  
2 dispensed by prescription or food or food ingredients, except  
3 prepared food intended for immediate human consumption.

4 (b) The deposit on a returnable container for a beverage or  
5 the deposit on a carton or case that is used for returnable  
6 containers.

7 (c) Food or tangible personal property purchased under the  
8 federal food stamp program or meals **SOLD BY A PERSON EXEMPT FROM**  
9 **THE TAX UNDER THIS ACT THAT ARE** eligible to be purchased under the  
10 federal food stamp program.

11 (d) Fruit or vegetable seeds and fruit or vegetable plants if  
12 purchased at a place of business authorized to accept food stamps  
13 by the food and nutrition service of the United States department  
14 of agriculture or a place of business that has made a complete and  
15 proper application for authorization to accept food stamps but has  
16 been denied authorization and provides proof of denial to the  
17 department of treasury.

18 (e) Live animals purchased with the intent to be slaughtered  
19 for human consumption.

20 (2) Food or drink heated or cooled mechanically, electrically,  
21 or by other artificial means to an average temperature above 75  
22 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and  
23 sold from a vending machine, except milk, nonalcoholic beverages in  
24 a sealed container, and fresh fruit, is subject to the tax under  
25 this act. The tax due under this act on the sale of food or drink  
26 from a vending machine selling both taxable items and items exempt  
27 under this subsection shall be calculated under this act based on 1

1 of the following as determined by the taxpayer:

2 (a) Actual gross proceeds from sales at retail.

3 (b) Forty-five percent of proceeds from the sale of items  
4 subject to tax under this act or exempt from the tax levied under  
5 this act, other than from the sale of carbonated beverages.

6 (3) "Food and food ingredients" means substances, whether in  
7 liquid, concentrated, solid, frozen, dried, or dehydrated form,  
8 that are sold for ingestion or chewing by humans and are consumed  
9 for their taste or nutritional value. Food and food ingredients do  
10 not include alcoholic beverages and tobacco.

11 (4) "Prepared food" means the following:

12 (a) Food sold in a heated state or that is heated by the  
13 seller.

14 (b) Two or more food ingredients mixed or combined by the  
15 seller for sale as a single item.

16 (c) Food sold with eating utensils provided by the seller,  
17 including knives, forks, spoons, glasses, cups, napkins, straws, or  
18 plates, but not including a container or packaging used to  
19 transport the food.

20 (5) Prepared food does not include the following:

21 (a) Food that is only cut, repackaged, or pasteurized by the  
22 seller.

23 (b) Raw eggs, fish, meat, poultry, and foods containing those  
24 raw items requiring cooking by the consumer in recommendations  
25 contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001  
26 food code published by the food and drug administration of the  
27 public health service of the department of health and human

1 services, to prevent foodborne illness.

2 (c) Food sold in an unheated state by weight or volume as a  
3 single item, without eating utensils.

4 (d) Bakery items, including bread, rolls, buns, biscuits,  
5 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,  
6 pies, tarts, muffins, bars, cookies, and tortillas, sold without  
7 eating utensils.

8 (6) "Prepared food intended for immediate consumption" means  
9 prepared food.

10 Sec. 4k. (1) The sale of tangible personal property that is  
11 part of a drop shipment is exempt from the tax under this act if  
12 the taxpayer complies with the requirements of subsection (3).

13 (2) As used in this section, "drop shipment" means the direct  
14 delivery of tangible personal property to a purchaser in Michigan  
15 by a person who has sold the property to another person not  
16 licensed under this act but possessing a resale or exemption  
17 certificate, ~~or~~ other written evidence of exemption authorized by  
18 another state, **OR ANY OTHER ACCEPTABLE INFORMATION EVIDENCING**  
19 **QUALIFICATION FOR A RESALE EXEMPTION**, for resale to the Michigan  
20 purchaser.

21 (3) For each transaction for which an exemption is claimed  
22 under subsection (1), the taxpayer shall provide, but not more  
23 frequently than annually, any information required by the board  
24 under the streamlined sales and use tax agreement in addition to  
25 the following information in a form prescribed by the department to  
26 the department:

27 (a) The name, address, and, if readily available, the federal

1 taxpayer identification number of the person to whom the property  
2 is sold for resale.

3 (b) The name, address, and, if readily available, the federal  
4 taxpayer identification number of the person to whom the property  
5 is shipped in Michigan.

6 (4) A sale at retail includes a drop shipment.

7 Sec. 4bb. (1) Beginning January 1, 2005, a ~~qualified~~  
8 ~~organization subject to the tax under this act may exclude from the~~  
9 ~~gross proceeds used for the computation of the tax the sale of an~~  
10 ~~eligible automobile to a qualified recipient~~ **THE SALE OF AN**  
11 **ELIGIBLE AUTOMOBILE TO A QUALIFIED RECIPIENT BY A QUALIFIED**  
12 **ORGANIZATION THAT IS SUBJECT TO THE TAX UNDER THIS ACT IS EXEMPT.**

13 (2) As used in this section:

14 (a) "Eligible automobile" means an automobile that meets all  
15 of the following requirements:

16 (i) The automobile has been inspected by a mechanic certified  
17 under the motor vehicle service and repair act, 1974 PA 300, MCL  
18 257.1301 to 257.1340.

19 (ii) The automobile is insured as required under state law.

20 (iii) The automobile is registered to a qualified recipient.

21 (b) "Qualified organization" means an organization that  
22 applies for certification not later than July 1 of the year in  
23 which an exemption is claimed under this section and is certified  
24 by the department of treasury as meeting all of the following  
25 requirements:

26 (i) The organization is exempt from taxation under section  
27 501(c)(3) of the internal revenue code, 26 USC 501.

1           (ii) The organization is licensed under the charitable  
2 organizations and solicitations act, 1975 PA 169, MCL 400.271 to  
3 400.294.

4           (iii) The organization administers a program to provide a  
5 qualified recipient with an eligible automobile for transportation  
6 to his or her place of employment or for employment-related  
7 activities.

8           (c) "Qualified recipient" means a person certified by a  
9 qualified organization as meeting all of the following  
10 qualifications:

11           (i) The qualified recipient receives or, if he or she applied,  
12 would be eligible to receive public assistance through a program  
13 created and administered under the social welfare act, 1939 PA 280,  
14 MCL 400.1 to 400.119b.

15           (ii) The qualified recipient has a valid Michigan operator's or  
16 chauffeur's license.

17           (iii) The qualified recipient is financially capable of meeting  
18 any loan payment, insurance payment, or other expenditure  
19 associated with the eligible vehicle.

20           (iv) Public transportation is not reasonably available to the  
21 qualified recipient, the qualified recipient has no other reliable  
22 means by which to commute to his or her place of employment, and  
23 the qualified recipient will use the eligible vehicle as his or her  
24 primary means of transportation to commute to and from his or her  
25 place of employment.

26           (v) The qualified recipient has a demonstrated ability to  
27 maintain employment.

1           (vi) If the qualified recipient is currently employed for not  
2 less than an average of 20 hours per week, the qualified recipient  
3 requires an automobile to retain his or her current employment or  
4 to accept a verified offer of employment in a position that is  
5 demonstrably superior to his or her current position of employment.

6           (vii) If the qualified recipient is not currently employed or  
7 is employed for less than an average of 20 hours per week, the  
8 qualified recipient requires an automobile to accept a verified  
9 offer of employment of not less than an average of 20 hours per  
10 week and cannot begin employment in that position without an  
11 automobile.

12           Sec. 12. (1) If an exemption from the tax under this act is  
13 claimed, the seller shall obtain identifying information of the  
14 purchaser and the reason for claiming the exemption at the time of  
15 the purchase or at a later date. The seller shall obtain the same  
16 information for a claimed exemption regardless of the medium in  
17 which the transaction occurred.

18           (2) A seller shall use a standard format for claiming an  
19 exemption electronically as adopted by the governing board under  
20 the streamlined sales and use tax agreement.

21           (3) A purchaser is not required to provide a signature to  
22 claim an exemption under this act unless a paper exemption form is  
23 used.

24           (4) A seller shall maintain a proper record of all exempt  
25 transactions and shall provide the record if requested by the  
26 department.

27           (5) A seller who complies with the requirements of this

1 section is not liable for the tax if a purchaser improperly claims  
2 an exemption. A purchaser who improperly claims an exemption is  
3 liable for the tax due under this act. This subsection does not  
4 apply if a seller fraudulently fails to collect the tax, ~~or~~  
5 solicits a purchaser to make an improper claim for exemption, ~~—OR~~  
6 ACCEPTS AN EXEMPTION FORM WHEN THE PURCHASER CLAIMS AN ENTITY-BASED  
7 EXEMPTION IF BOTH OF THE FOLLOWING CIRCUMSTANCES OCCUR:

8 (A) THE SUBJECT OF THE TRANSACTION SOUGHT TO BE COVERED BY THE  
9 EXEMPTION FORM IS ACTUALLY RECEIVED BY THE PURCHASER AT A LOCATION  
10 OPERATED BY THE SELLER.

11 (B) THE STATE IN WHICH THAT LOCATION OPERATED BY THE SELLER IS  
12 LOCATED PROVIDES AN EXEMPTION FORM THAT CLEARLY AND AFFIRMATIVELY  
13 INDICATES THAT THE CLAIMED EXEMPTION IS NOT AVAILABLE IN THAT  
14 STATE.

15 (6) A SELLER WHO OBTAINS A FULLY COMPLETED EXEMPTION FORM OR  
16 CAPTURES THE RELEVANT DATA ELEMENTS AS OUTLINED IN THIS SECTION  
17 WITHIN 120 DAYS AFTER THE DATE OF SALE IS NOT LIABLE FOR THE TAX.

18 (7) IF THE SELLER HAS NOT OBTAINED AN EXEMPTION FORM OR ALL  
19 RELEVANT DATA ELEMENTS, THE SELLER MAY EITHER PROVE THAT THE  
20 TRANSACTION WAS NOT SUBJECT TO TAX BY OTHER MEANS OR OBTAIN A FULLY  
21 COMPLETED EXEMPTION FORM FROM THE PURCHASER, BY THE LATER OF THE  
22 FOLLOWING:

23 (A) 120 DAYS AFTER A REQUEST BY THE DEPARTMENT.

24 (B) THE DATE AN ASSESSMENT BECOMES FINAL.

25 (C) THE DENIAL OF A CLAIM FOR REFUND.

26 (D) IN THE INSTANCE OF A CREDIT AUDIT, THE ISSUANCE OF AN  
27 AUDIT DETERMINATION LETTER OR INFORMAL CONFERENCE DECISION AND

1 ORDER OF DETERMINATION.

2 (E) THE DATE OF A FINAL ORDER OF THE COURT OF CLAIMS OR THE  
3 MICHIGAN TAX TRIBUNAL, AS APPLICABLE, WITH RESPECT TO AN  
4 ASSESSMENT, ORDER, OR DECISION OF THE DEPARTMENT.

5 (8) THE DEPARTMENT MAY, IN ITS DISCRETION, ALLOW A SELLER  
6 ADDITIONAL TIME TO COMPLY WITH SUBSECTION (7).

7 (9) A SELLER IS NOT LIABLE FOR THE TAX IF THE SELLER OBTAINS A  
8 BLANKET EXEMPTION FORM FOR A PURCHASER WITH WHICH THE SELLER HAS A  
9 RECURRING BUSINESS RELATIONSHIP. RENEWALS OF BLANKET EXEMPTION  
10 FORMS OR UPDATES OF EXEMPTION FORM INFORMATION OR DATA ELEMENTS ARE  
11 NOT REQUIRED IF THERE IS A RECURRING BUSINESS RELATIONSHIP BETWEEN  
12 THE SELLER AND THE PURCHASER. FOR PURPOSES OF THIS SECTION, A  
13 RECURRING BUSINESS RELATIONSHIP EXISTS WHEN A PERIOD OF NOT MORE  
14 THAN 12 MONTHS ELAPSES BETWEEN SALES TRANSACTIONS.

15 (10) A CERTIFIED SERVICE PROVIDER SHALL BE CONSIDERED A SELLER  
16 UNDER THIS SECTION. AS USED IN THIS SECTION, "CERTIFIED SERVICE  
17 PROVIDER" MEANS THAT TERM AS DEFINED IN SECTION 25 OF THE  
18 STREAMLINED SALES AND USE TAX ADMINISTRATION ACT, 2004 PA 174, MCL  
19 205.825.

20 Sec. 18. (1) A person liable for any tax imposed under this  
21 act shall keep accurate and complete beginning and annual inventory  
22 and purchase records of additions to inventory, complete daily  
23 sales records, receipts, invoices, bills of lading, and all  
24 pertinent documents in a form the department requires. If an  
25 exemption from the tax under this act is claimed by a person  
26 because the sale is for resale at retail, a record shall be kept of  
27 the sales tax license number if the person has a sales tax license.

1 These records shall be retained for a period of 4 years after the  
2 tax imposed under this act to which the records apply is due or as  
3 otherwise provided by law.

4 (2) If the department considers it necessary, the department  
5 may require a person, by notice served upon that person, to make a  
6 return, render under oath certain statements, or keep certain  
7 records the department considers sufficient to show whether or not  
8 that person is liable for the tax under this act.

9 (3) A person knowingly making a sale of tangible personal  
10 property for the purpose of resale at retail to another person not  
11 licensed under this act is liable for the tax under this act unless  
12 the transaction is exempt under the provisions of section 4k.

13 (4) If the taxpayer fails to file a return or to maintain or  
14 preserve proper records as prescribed in this section, or the  
15 department has reason to believe that any records maintained or  
16 returns filed are inaccurate or incomplete and that additional  
17 taxes are due, the department may assess the amount of the tax due  
18 from the taxpayer based on information that is available or that  
19 may become available to the department. That assessment is  
20 considered prima facie correct for the purpose of this act and the  
21 burden of proof of refuting the assessment is upon the taxpayer.

22 (5) If all the information is maintained as provided under  
23 section 12, an exemption certificate is not required for an  
24 exemption claim by the following:

25 (a) A person licensed by the Michigan liquor control  
26 commission as a wholesaler for purposes of sales of alcoholic  
27 liquor to another person licensed by the Michigan liquor control

1 commission. As used in this subsection, "alcoholic liquor",  
2 "authorized distribution agent", and "wholesaler" mean those terms  
3 as defined in the Michigan liquor control code of 1998, 1998 PA 58,  
4 MCL 436.1101 to 436.2303.

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

9 (6) For purposes of this act, a blanket exemption claim covers  
10 all exempt transfers between the taxpayer and the buyer for a  
11 period of 4 years or for a period of less than 4 years as stated on  
12 the blanket exemption claim if that period is agreed to by the  
13 buyer and taxpayer. **RENEWAL OF A BLANKET EXEMPTION CLAIM OR AN  
14 UPDATE OF EXEMPTION CLAIM INFORMATION OR DATA ELEMENTS IS NOT  
15 REQUIRED IF THERE IS A RECURRING BUSINESS RELATIONSHIP BETWEEN THE  
16 SELLER AND THE PURCHASER. FOR PURPOSES OF THIS SUBSECTION, A  
17 RECURRING BUSINESS RELATIONSHIP EXISTS WHEN A PERIOD OF NOT MORE  
18 THAN 12 MONTHS ELAPSES BETWEEN SALES TRANSACTIONS.**

19 ~~—— (7) This section applies if this state is a member state of  
20 the streamlined sales and use tax agreement.~~

21 Sec. 21. (1) A purchaser of direct mail other than a holder of  
22 a direct pay permit under section 8 of the use tax act, 1937 PA 94,  
23 MCL 205.98, shall provide to the seller at the time of purchase  
24 either ~~a direct mail~~ **AN EXEMPTION** form as prescribed by the  
25 department or information indicating the taxing jurisdictions to  
26 which the direct mail is delivered to recipients.

27 (2) Upon receipt of the ~~direct mail~~ **EXEMPTION** form, the seller

1 is relieved of all obligation to collect, pay, or remit the  
2 applicable tax and the purchaser is then obligated to pay the  
3 applicable tax on a direct pay basis.

4 (3) ~~A direct mail~~ **AN EXEMPTION** form remains in effect for all  
5 subsequent sales of direct mail by the seller to the purchaser  
6 until revoked in writing.

7 (4) Upon receipt of information from the purchaser indicating  
8 the taxing jurisdictions to which the direct mail is delivered to  
9 recipients, the seller shall collect the tax according to that  
10 delivery information. In the absence of bad faith, the seller is  
11 relieved of any further obligation to collect the tax if the seller  
12 collected the tax using the delivery information provided by the  
13 purchaser.

14 (5) If the purchaser does not have a direct pay permit and  
15 does not provide the seller with ~~a direct mail~~ **AN EXEMPTION** form or  
16 delivery information as required in subsection (1), the seller  
17 shall collect the tax in the same manner as provided in section 19.  
18 Nothing in this subsection limits a purchaser's obligation for the  
19 tax under this act.

20 (6) A purchaser who provides the seller with documentation of  
21 a direct pay permit is not required to provide ~~a direct mail~~ **AN**  
22 **EXEMPTION** form or delivery information.

23 Enacting section 1. Sections 17 and 20 of the general sales  
24 tax act, 1933 PA 167, MCL 205.67 and 205.70, are repealed.