

HOUSE BILL No. 5535

October 22, 2009, Introduced by Rep. Lund and referred to the Committee on Regulatory Reform.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
(MCL 208.1101 to 208.1601) by adding section 465.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 465. (1) FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY 1,
2 2009, A TAXPAYER THAT OWNS OR OPERATES A FOOD SERVICE ESTABLISHMENT
3 AND PROHIBITS SMOKING WITHIN THAT FOOD SERVICE ESTABLISHMENT MAY
4 CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR A PERIOD OF
5 5 TAX YEARS EQUAL TO THE PRODUCT OF THE TAXPAYER'S GROSS RECEIPTS
6 FOR THE TAX YEAR DURING WHICH THE TAXPAYER FIRST IMPOSED THE
7 SMOKING BAN MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS THE
8 DIFFERENCE BETWEEN TAXPAYER'S GROSS RECEIPTS ATTRIBUTABLE TO THE
9 SAME FULL MONTH IN THE IMMEDIATELY PRECEDING CALENDAR YEAR BEFORE

1 THE TAXPAYER'S FOOD SERVICE ESTABLISHMENT PROHIBITED SMOKING AND
2 THE GROSS RECEIPTS ATTRIBUTABLE TO THE FIRST FULL MONTH IN WHICH
3 THE TAXPAYER'S FOOD SERVICE ESTABLISHMENT WAS A SMOKE-FREE
4 ESTABLISHMENT AND THE DENOMINATOR OF WHICH IS TAXPAYER'S GROSS
5 RECEIPTS ATTRIBUTABLE TO THE SAME FULL MONTH IN THE IMMEDIATELY
6 PRECEDING CALENDAR YEAR BEFORE THE TAXPAYER'S FOOD SERVICE
7 ESTABLISHMENT PROHIBITED SMOKING.

8 (2) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
9 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED BY THIS SECTION
10 EXCEED THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR, THAT PORTION
11 THAT EXCEEDS THE TAX LIABILITY FOR THE TAX YEAR SHALL NOT BE
12 REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET TAX LIABILITY IN
13 SUBSEQUENT TAX YEARS FOR 10 YEARS OR UNTIL USED UP, WHICHEVER
14 OCCURS FIRST.

15 (3) A TAXPAYER THAT CLAIMS A CREDIT UNDER THIS SECTION AND
16 SUBSEQUENTLY LIFTS THE SMOKING BAN WITHIN ITS FOOD SERVICE
17 ESTABLISHMENT MAY, AS DETERMINED BY THE DEPARTMENT, HAVE ITS CREDIT
18 REDUCED OR TERMINATED OR HAVE A PERCENTAGE OF THE CREDIT AMOUNT
19 PREVIOUSLY CLAIMED UNDER THIS SECTION ADDED BACK TO THE TAX
20 LIABILITY OF THE TAXPAYER IN THE YEAR THAT THE TAXPAYER STOPS
21 IMPOSING THE SMOKING BAN.

22 (4) AS USED IN THIS SECTION, "FOOD SERVICE ESTABLISHMENT"
23 MEANS THAT TERM AS DEFINED UNDER SECTION 1107 OF THE FOOD LAW OF
24 2000, 2000 PA 92, MCL 289.1107.