

Act No. 159
Public Acts of 2013
Approved by the Governor
November 5, 2013
Filed with the Secretary of State
November 6, 2013
EFFECTIVE DATE: November 6, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. LaFontaine, Graves, Jenkins, Foster, Outman, Goike, Shirkey, Lyons, Cotter, Barnett, Brunner, Cavanagh, Crawford, Daley, Dillon, Forlini, Geiss, Genetski, Haugh, Heise, Johnson, Kelly, Knezek, Kosowski, Kowall, Kurtz, Lane, Lauwers, LaVoy, Leonard, Lori, Lund, MacGregor, MacMaster, O'Brien, Pagel, Pettalia, Potvin, Price, Pscholka, Rendon, Schmidt, Segal, Singh, Slavens, Somerville, Stamas, Stanley, Talabi, VerHeulen, Victory, Walsh and Zorn

ENROLLED HOUSE BILL No. 4234

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 1 (MCL 205.51), as amended by 2008 PA 438.

The People of the State of Michigan enact:

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

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and includes the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

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

(c) "Gross proceeds" means sales price.

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

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

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

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

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

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

(iv) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property subject to the tax levied under this act from the seller to the purchaser. A seller is not liable under this act for delivery charges allocated to the delivery of exempt property.

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

(vi) Except as otherwise provided in subparagraph (xi), credit for any trade-in.

(vii) Except as otherwise provided in subparagraph (x), consideration received by the seller from third parties if all of the following conditions are met:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale.

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser.

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser.

(D) One of the following criteria is met:

(I) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented.

(II) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in a group or organization.

(III) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

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

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

(x) Beginning January 1, 2000, employee discounts that are reimbursed by a third party on sales of motor vehicles.

(xi) Beginning December 15, 2013, except as otherwise limited in this subparagraph, the agreed-upon value of a motor vehicle or recreational vehicle used as part payment of the purchase price of a new motor vehicle, used motor vehicle, new recreational vehicle, or used recreational vehicle, if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser. For purposes of this subparagraph, the agreed-upon value of a motor vehicle or recreational vehicle used as part payment shall be limited to the lesser of \$2,000.00 or the agreed-upon value of the motor vehicle or recreational vehicle used as part payment.

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

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

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

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

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

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

(k) "New motor vehicle" means that term as defined in section 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

(l) "Recreational vehicle" means that term as defined in section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

(2) If the department determines that it is necessary for the efficient administration of this act to regard an unlicensed person, including a salesperson, representative, peddler, or canvasser as the agent of the dealer, distributor, supervisor, or employer under whom the unlicensed person operates or from whom the unlicensed person obtains the tangible personal property sold by the unlicensed person, irrespective of whether the unlicensed person is making sales on the unlicensed person's own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department

may so regard the unlicensed person and may regard the dealer, distributor, supervisor, or employer as making sales at retail at the retail price for the purposes of this act.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 89 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: Senate Bill No. 89, referred to in enacting section 1, was filed with the Secretary of State November 6, 2013, and became 2013 PA 160, Imd. Eff. Nov. 6, 2013.