

# HOUSE BILL No. 4465

April 16, 2015, Introduced by Rep. Lyons and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending section 4d (MCL 205.94d), as amended by 2008 PA 439.

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

1           Sec. 4d. (1) The following are exempt from the tax under this  
2 act:

3           (a) Sales of drugs for human use that can only be legally  
4 dispensed by prescription, **OVER-THE-COUNTER DRUGS FOR HUMAN USE**  
5 **THAT ARE LEGALLY DISPENSED BY PRESCRIPTION**, or food or food  
6 ingredients, except prepared food intended for immediate human  
7 consumption. **AS USED IN THIS SUBDIVISION, "OVER-THE-COUNTER DRUG"**  
8 **MEANS A DRUG THAT IS LABELED IN ACCORDANCE WITH THE FORMAT AND**  
9 **CONTENT REQUIREMENTS REQUIRED FOR LABELING OVER-THE-COUNTER DRUGS**  
10 **UNDER 21 CFR 201.66.**

1           (b) The deposit on a returnable container for a beverage or  
2 the deposit on a carton or case that is used for returnable  
3 containers.

4           (c) Food or tangible personal property purchased under the  
5 federal food stamp program or meals sold by a person exempt from  
6 the tax under this act eligible to be purchased under the federal  
7 food stamp program.

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

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

18           (2) Food or drink heated or cooled mechanically, electrically,  
19 or by other artificial means to an average temperature above 75  
20 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and  
21 sold from a vending machine, except milk, nonalcoholic beverages in  
22 a sealed container, and fresh fruit, is subject to the tax under  
23 this act. The tax due under this act on the sale of food or drink  
24 from a vending machine selling both taxable items and items exempt  
25 under this subsection shall be calculated under this act after  
26 December 31, 1994 based on 1 of the following as determined by the  
27 taxpayer:

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

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

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

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

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

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

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

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

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

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

1 **HUMAN 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 Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.