

SENATE BILL No. 1183

May 5, 2004, Introduced by Senator HAMMERSTROM and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4g (MCL 205.54g), as amended by 2000 PA 417.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4g. (1) A person subject to tax under this act may
2 exclude from the amount of the gross proceeds used for the
3 computation of the tax 1 or more of the following:

4 (a) Sales of prescription drugs for human use or food for
5 human consumption, except prepared food intended for immediate
6 consumption.

7 (b) The deposit on a returnable container for a beverage or
8 the deposit on a carton or case that is used for returnable
9 containers.

10 (c) Food or tangible personal property purchased with federal
11 food stamps.

1 (d) Fruit or vegetable seeds and fruit or vegetable plants if
 2 purchased at a place of business authorized to accept food stamps
 3 by the food and nutrition service of the United States department
 4 of agriculture or a place of business that has made a complete
 5 and proper application for authorization to accept food stamps
 6 but has been denied authorization and provides proof of denial to
 7 the department of treasury.

8 (e) Food sold to senior citizens at a senior center. As used
 9 in this subdivision:

10 (i) "Senior center" means a place where services or
 11 recreation is provided for the benefit of senior citizens.

12 (ii) "Senior citizen" means a person who is 65 years of age
 13 or older.

14 (2) "Prescription drugs for human use" means insulin or a
 15 drug dispensed by a licensed pharmacist pursuant to a written
 16 prescription prescribed by a licensed physician or other health
 17 professional as defined by section ~~21005 of the public health~~
 18 ~~code, 1978 PA 368, MCL 333.21005~~ **3501 of the insurance code of**
 19 **1956, 1956 PA 218, MCL 500.3501**, for the use of a designated
 20 person, or oxygen dispensed pursuant to a written prescription or
 21 order issued by a licensed physician or other health professional
 22 as defined in section ~~21005 of the public health code, 1978~~
 23 ~~PA 368, MCL 333.21005~~ **3501 of the insurance code of 1956, 1956**
 24 **PA 218, MCL 500.3501.**

25 (3) "Food for human consumption" means all food and drink
 26 items, including bottled water, intended primarily for human
 27 consumption except beverages with an alcohol content of 1/2 of 1%

1 or more by volume, tobacco and tobacco products, and prepared
2 food intended for immediate consumption. Food for human
3 consumption includes live animals purchased with the intent to be
4 slaughtered for human consumption.

5 (4) "Prepared food intended for immediate consumption" means
6 a retail sale of 1 or more of the following:

7 (a) Food or drink prepared and served for immediate
8 consumption at or near the premises or ordinarily sold on a
9 takeout basis for immediate consumption either on or off the
10 premises. For the purposes of this section premises includes the
11 total space and facilities in or on which a retailer conducts his
12 or her business, including, but not limited to, parking areas for
13 the convenience of in-car consumption, outdoor tables, benches,
14 chairs, and similar conveniences.

15 (b) Food or drink furnished, prepared, or served for
16 immediate consumption at a table, chair, or counter or from a
17 tray, glass, dish, container, or other tableware.

18 (c) Food or drink arranged on a plate or platter, whether
19 intended for individual or multiple servings and whether sold by
20 the pound or by the serving; a sandwich, either hot or cold; or a
21 combination of taxable and nontaxable items when sold as a plate
22 or packaged as a meal, even though intended for more than 1
23 serving.

24 (d) Food that is cooked to the order of the purchaser, or
25 that is cooked and maintained at a temperature higher than the
26 surrounding air temperature before sale, or prepared food that is
27 sold by the piece rather than by weight or measure.

1 (e) Food or drink heated or cooled mechanically,
2 electrically, or by other artificial means to an average
3 temperature above 75 degrees Fahrenheit or below 65 degrees
4 ~~Farenheit~~ **Fahrenheit** before sale and sold from a mobile
5 facility or vending machine, except milk, nonalcoholic beverages
6 in a sealed container, and fresh fruit. A refund shall not be
7 made for any taxes paid after December 31, 1994 and before
8 January 16, 1997 for food or drink otherwise exempt under this
9 subdivision. The tax due under this act on the sale of food or
10 drink from a vending machine selling both taxable items and items
11 exempt under this subsection shall be calculated under this act
12 after December 31, 1994 based on 1 of the following as determined
13 by the taxpayer:

14 (i) Actual gross proceeds from sales at retail.

15 (ii) Forty-five percent of proceeds from the sale of items
16 subject to tax under this act or exempt from the tax levied under
17 this act, other than from the sale of carbonated beverages.

18 (5) Prepared food intended for immediate consumption does not
19 include bakery products for off-premises consumption, such as
20 doughnuts, pastry, bread, and cakes; meals eligible to be
21 purchased with federal food stamps; or nonalcoholic beverages and
22 prepared food intended for immediate consumption provided during
23 work hours for free or at a reduced rate to employees of food
24 service establishments licensed by the Michigan department of
25 agriculture. As used in this subsection, "food service
26 establishment" means that term as defined in section 1107 of the
27 food law of 2000, 2000 PA 92, MCL 289.1107.