

# HOUSE BILL No. 4912

June 9, 2005, Introduced by Rep. Meisner and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 4g (MCL 205.54g), as amended by 2004 PA 173.

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

1           Sec. 4g. (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 or food or food ingredients, except  
5 prepared food intended for immediate human consumption **AND, AFTER**  
6 **SEPTEMBER 30, 2005, FOOD AND FOOD INGREDIENTS SOLD FROM A VENDING**  
7 **MACHINE.**

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

1 (c) Food or tangible personal property purchased under the  
2 federal food stamp program or meals eligible to be purchased under  
3 the federal food stamp program.

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

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

13 (2) ~~Food~~ **BEFORE OCTOBER 1, 2005, FOOD** or drink heated or  
14 cooled mechanically, electrically, or by other artificial means to  
15 an average temperature above 75 degrees Fahrenheit or below 65  
16 degrees Fahrenheit before sale and sold from a vending machine,  
17 except milk, nonalcoholic beverages in a sealed container, and  
18 fresh fruit, is subject to the tax under this act. The tax due  
19 under this act on the sale of food or drink from a vending machine  
20 selling both taxable items and items exempt under this subsection  
21 shall be calculated under this act based on 1 of the following as  
22 determined by the taxpayer:

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

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

27 (3) "Food and food ingredients" means substances, whether in

1 liquid, concentrated, solid, frozen, dried, or dehydrated form,  
2 that are sold for ingestion or chewing by humans and are consumed  
3 for their taste or nutritional value. Food and food ingredients do  
4 not include alcoholic beverages and tobacco.

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

6 (a) Food sold in a heated state or that is heated by the  
7 seller.

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

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

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

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

17 (b) Raw eggs, fish, meat, poultry, and foods containing those  
18 raw items requiring cooking by the consumer in recommendations  
19 contained in section 3-401.11 of part 3-4 of chapter 3 of the 2001  
20 food code published by the food and drug administration of the  
21 public health service of the department of health and human  
22 services, to prevent foodborne illness.

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

25 (d) Bakery items, including bread, rolls, buns, biscuits,  
26 bagels, croissants, pastries, doughnuts, danish, cakes, tortes,  
27 pies, tarts, muffins, bars, cookies, and tortillas, sold without

1 eating utensils.

2 (6) "Prepared food intended for immediate **HUMAN** consumption"

3 means prepared food **AND, AFTER SEPTEMBER 30, 2005, FOOD AND FOOD**

4 **INGREDIENTS SOLD FROM A VENDING MACHINE.**