

**SUBSTITUTE FOR  
HOUSE BILL NO. 4203**

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending section 1a (MCL 205.51a), as amended by 2017 PA 221,  
and by adding section 4ff.

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

1       Sec. 1a. As used in this act:

2       (a) "Alcoholic beverage" means a beverage suitable for human  
3 consumption that contains 1/2 of 1% or more of alcohol by volume.

4       (b) "Computer" means an electronic device that accepts  
5 information in digital or similar form and manipulates it for a  
6 result based on a sequence of instructions.

7       (c) "Computer software" means a set of coded instructions  
8 designed to cause a computer or automatic data processing equipment



1 to perform a task.

2 (d) "Delivered electronically" means delivered from the seller  
3 to the purchaser by means other than tangible storage media.

4 (e) "Delivery charges" means charges by the seller for  
5 preparation and delivery to a location designated by the purchaser  
6 of tangible personal property or services. Delivery charges  
7 include, but are not limited to, transportation, shipping, postage,  
8 handling, crating, and packing. Beginning September 1, 2004,  
9 delivery charges do not include the charges for delivery of direct  
10 mail if the charges are separately stated on an invoice or similar  
11 billing document given to the purchaser. If a shipment includes  
12 both exempt property and taxable property, the seller shall  
13 allocate the delivery charge using 1 of the following methods:

14 (i) Multiply the delivery price by a fraction, the numerator of  
15 which is the total sales prices of the taxable property and the  
16 denominator of which is the total sales prices of all property in  
17 the shipment.

18 (ii) Multiply the delivery price by a fraction, the numerator  
19 of which is the total weight of the taxable property and the  
20 denominator of which is the total weight of all property in the  
21 shipment.

22 (f) "Dental prosthesis" means a bridge, crown, denture, or  
23 other similar artificial device used to repair or replace intraoral  
24 defects such as missing teeth, missing parts of teeth, and missing  
25 soft or hard structures of the jaw or palate.

26 (g) "Dietary supplement" means any product, other than  
27 tobacco, intended to supplement the diet that is all of the  
28 following:

29 (i) Required to be labeled as a dietary supplement identifiable



1 by the ~~"supplemental"~~ **"supplement** facts" box found on the label as  
2 required by 21 CFR 101.36.

3 (ii) Contains 1 or more of the following dietary ingredients:

4 (A) A vitamin.

5 (B) A mineral.

6 (C) An herb or other botanical.

7 (D) An amino acid.

8 (E) A dietary substance for use by humans to supplement the  
9 diet by increasing the total dietary intake.

10 (F) A concentrate, metabolite, constituent, extract, or  
11 combination of any ingredient listed in sub-subparagraphs (A)  
12 ~~through~~ **to** (E).

13 (iii) Intended for ingestion in tablet, capsule, powder,  
14 softgel, gelcap, or liquid form, or if not intended for ingestion  
15 in 1 of those forms, is not represented as conventional food or for  
16 use as a sole item of a meal or of the diet.

17 (h) "Direct mail" means printed material delivered or  
18 distributed by United States mail or other delivery service to a  
19 mass audience or to addressees on a mailing list provided by the  
20 purchaser or at the direction of the purchaser ~~when~~ **if** the cost of  
21 the items are not billed directly to the recipients, including  
22 tangible personal property supplied directly or indirectly by the  
23 purchaser to the direct mail seller for inclusion in the package  
24 containing the printed material, but not including multiple items  
25 of printed material delivered to a single address.

26 (i) "Drug" means a compound, substance, or preparation, or any  
27 component of a compound, substance, or preparation, other than food  
28 or food ingredients, dietary supplements, or alcoholic beverages,  
29 intended for human use that is 1 or more of the following:



1 (i) Recognized in the official United States pharmacopoeia,  
2 official homeopathic pharmacopoeia of the United States, or  
3 official national formulary, or in any of their supplements.

4 (ii) Intended for use in the diagnosis, cure, mitigation,  
5 treatment, or prevention of disease.

6 (iii) Intended to affect the structure or any function of the  
7 body.

8 (j) "Durable medical equipment" means equipment for home use,  
9 other than mobility enhancing equipment, dispensed pursuant to a  
10 prescription, including durable medical equipment repair or  
11 replacement parts, that does all of the following:

12 (i) Can withstand repeated use.

13 (ii) Is primarily and customarily used to serve a medical  
14 purpose.

15 (iii) Is not useful generally to a person in the absence of  
16 illness or injury.

17 (iv) Is not worn in or on the body.

18 (k) "Durable medical equipment repair or replacement parts"  
19 includes all components or attachments used in conjunction with  
20 durable medical equipment.

21 (l) "Electronic" means relating to technology having  
22 electrical, digital, magnetic, wireless, optical, electromagnetic,  
23 or similar capabilities.

24 (m) "Lease or rental" means any transfer of possession or  
25 control of tangible personal property for a fixed or indeterminate  
26 term for consideration and may include future options to purchase  
27 or extend. This definition applies only to leases and rentals  
28 entered into after September 1, 2004 and has no retroactive impact  
29 on leases and rentals that existed on that date. Lease or rental



1 does not include the following subparagraphs (i) ~~through~~ to (iii) and  
 2 includes subparagraph (iv):

3 (i) A transfer of possession or control of tangible personal  
 4 property under a security agreement or deferred payment plan that  
 5 requires the transfer of title upon completion of the required  
 6 payments.

7 (ii) A transfer of possession or control of tangible personal  
 8 property under an agreement requiring transfer of title upon  
 9 completion of the required payments and payment of an option price  
 10 that does not exceed \$100.00 or 1% of the total required payments,  
 11 whichever is greater.

12 (iii) The provision of tangible personal property along with an  
 13 operator for a fixed or indeterminate period of time, ~~where~~ ~~if~~ that  
 14 operator is necessary for the equipment to perform as designed. To  
 15 be necessary, an operator must do more than maintain, inspect, or  
 16 set up the tangible personal property.

17 (iv) An agreement covering motor vehicles or trailers if the  
 18 amount of consideration may be increased or decreased by reference  
 19 to the amount realized upon sale or disposition of the property as  
 20 defined in section 7701(h)(1) of the internal revenue code **of 1986**,  
 21 26 USC ~~7701~~ **7701 (h) (1)** .

22 (n) "Mobility enhancing equipment" means equipment, other than  
 23 durable medical equipment or a motor vehicle or equipment on a  
 24 motor vehicle normally provided by a motor vehicle manufacturer,  
 25 dispensed pursuant to a prescription, including repair or  
 26 replacement parts for that equipment, that is all of the following:

27 (i) Primarily and customarily used to provide or increase the  
 28 ability to move from 1 place to another and is appropriate for use  
 29 at home or on a motor vehicle.



1           (ii) Not generally used by a person with normal mobility.

2           (o) "Prescription" means an order, formula, or recipe, issued  
3 in any form of oral, written, electronic, or other means of  
4 transmission by a licensed physician or other health professional  
5 as defined in section 3501 of the insurance code of 1956, 1956 PA  
6 218, MCL 500.3501. For a hearing aid, prescription includes an  
7 order, instruction, or direction of a hearing aid dealer or  
8 salesperson licensed under article 13 of the occupational code,  
9 1980 PA 299, MCL 339.1301 to 339.1309.

10           (p) "Prewritten computer software" means computer software,  
11 including prewritten upgrades, that is delivered by any means and  
12 that is not designed and developed by the author or other creator  
13 to the specifications of a specific purchaser. Prewritten computer  
14 software includes the following:

15           (i) Any combination of 2 or more prewritten computer software  
16 programs or portions of prewritten computer software programs.

17           (ii) Computer software designed and developed by the author or  
18 other creator to the specifications of a specific purchaser if it  
19 is sold to a person other than that specific purchaser.

20           (iii) The modification or enhancement of prewritten computer  
21 software or portions of prewritten computer software ~~where~~ **if** the  
22 modification or enhancement is designed and developed to the  
23 specifications of a specific purchaser unless there is a  
24 reasonable, separately stated charge or an invoice or other  
25 statement of the price is given to the purchaser for the  
26 modification or enhancement. If a person other than the original  
27 author or creator modifies or enhances prewritten computer  
28 software, that person is considered to be the author or creator of  
29 only that person's modifications or enhancements.



1 (q) "Prosthetic device" means, **except as provided in section**  
2 **4ff**, a replacement, corrective, or supportive device, other than  
3 contact lenses and dental prosthesis, dispensed pursuant to a  
4 prescription, including repair or replacement parts for that  
5 device, worn on or in the body to do 1 or more of the following:

6 (i) Artificially replace a missing portion of the body.

7 (ii) Prevent or correct a physical deformity or malfunction of  
8 the body.

9 (iii) Support a weak or deformed portion of the body.

10 (r) "Tangible personal property" means personal property that  
11 can be seen, weighed, measured, felt, or touched or that is in any  
12 other manner perceptible to the senses and includes electricity,  
13 water, gas, steam, and prewritten computer software.

14 (s) "Tobacco" means cigarettes, cigars, chewing or pipe  
15 tobacco, or any other item that contains tobacco.

16 **Sec. 4ff. (1) The sale to a hospital or freestanding surgical**  
17 **outpatient facility of a prosthetic device for implantation into a**  
18 **human is exempt from the tax imposed by this act.**

19 (2) As used in this section:

20 (a) "Freestanding surgical outpatient facility" means a  
21 facility licensed under part 208 of the public health code, 1978 PA  
22 368, MCL 333.20801 to 333.20821.

23 (b) "Hospital" means a hospital licensed under part 215 of the  
24 public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

25 (c) "Prosthetic device" means a replacement, corrective, or  
26 supportive device, other than contact lenses and dental prosthesis,  
27 including repair or replacement parts for that device, worn on or  
28 in the body to do 1 or more of the following:

29 (i) Artificially replace a missing portion of the body.



1           (ii) Prevent or correct a physical deformity or malfunction of  
2 the body.

3           (iii) Support a weak or deformed portion of the body.