



SENATE BILL No. 1016

February 9 1994 Introduced by Senators WELBORN CARL
KELLY, DI NELLO, HOFFMAN, DILLINGHAM HART, HONIGMAN and
PRIDNIA and referred to the Committee on Finance

A bill to amend section 1 of Act No 167 of the Public Acts
of 1933 entitled as amended

"General sales tax act,"

as amended by Act No 325 of the Public Acts of 1993, being
section 205 51 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 1 of Act No 167 of the Public Acts of
2 1933, as amended by Act No 325 of the Public Acts of 1993 being
3 section 205 51 of the Michigan Compiled Laws is amended to read
4 as follows

5 Sec 1 (1) As used in this act

6 (a) "Person" means an individual firm partnership, joint
7 venture, association, social club, fraternal organization,
8 municipal or private corporation, whether organized for profit or
9 not, company, estate, trust, receiver, trustee, syndicate the

1 United States, this state, county or any other group or
2 combination acting as a unit, and includes the plural as well as
3 the singular number unless the intention to give a more limited
4 meaning is disclosed by the context

5 (b) "Sale at retail" means a transaction by which the owner-
6 ship of tangible personal property is transferred for considera-
7 tion, if the transfer is made in the ordinary course of the
8 transferor's business and is made to the transferee for consump-
9 tion or use, or for any purpose other than for resale, or for
10 lease, if the rental receipts are taxable under the use tax act
11 Act No 94 of the Public Acts of 1937, as amended, being sections
12 205 91 to 205 111 of the Michigan Compiled Laws, in the form of
13 tangible personal property to a person licensed under this act
14 or for demonstration purposes or lending or leasing to a public
15 or parochial school offering a course in automobile driving
16 However, a vehicle purchased by the school shall be certified for
17 driver education and shall not be reassigned for personal use of
18 the school's administrative personnel For a dealer selling a
19 new car or truck, the exemption for demonstration purposes shall
20 be determined by the number of new cars and trucks sold during
21 the current calendar year or the immediately preceding year with-
22 out regard to specific make or style in accordance with the fol-
23 lowing schedule of 0 to 25 2 units 26 to 100, 7 units 101 to
24 500, 20 units 501 or more, 25 units but not to exceed 25 cars
25 and trucks in a calendar year for demonstration purposes

26 (c) "Sale at retail" includes the sale of tangible personal
27 property to persons directly engaged in the business of

1 constructing altering, repairing or improving real estate for
2 others except property affixed to and made a structural part of
3 the real estate of a nonprofit hospital or nonprofit housing A
4 nonprofit hospital or nonprofit housing includes only the prop-
5 erty of a nonprofit hospital or the homes or dwelling places con-
6 structed by a nonprofit housing entity qualified as exempt pursu-
7 ant to section 15a of the state housing development authority act
8 of 1966, Act No 346 of the Public Acts of 1966, as amended,
9 being section 125 1415a of the Michigan Compiled Laws, the income
10 or property of which does not directly or indirectly inure to the
11 benefit of an individual, private stockholder or other private
12 person

13 (d) "Sale at retail" includes a conditional sale, install-
14 ment lease sale, and other transfer of property if title is
15 retained as security for the purchase price but is intended to be
16 transferred later

17 (e) "Sale at retail" includes the sale of electricity natu-
18 ral or artificial gas, or steam if made to the consumer or user
19 for consumption or use rather than for resale Sale at retail
20 does not include the sale of water through water mains or the
21 sale of water delivered in bulk tanks in quantities of not less
22 than 500 gallons

23 (f) "Sale at retail" includes computer software offered for
24 general sale to the public or software modified or adapted to the
25 user's needs or equipment by the seller, only if the software is
26 available for sale from a seller of software on an as is basis or
27 as an end product without modification or adaptation Sale at

1 retail does not include specific charges for technical support or
2 for adapting or modifying prewritten, standard, or canned com-
3 puter software programs to a purchaser's needs or equipment if
4 those charges are separately stated and identified Sale at
5 retail does not include computer software originally designed for
6 the exclusive use and special needs of the purchaser As used in
7 this subdivision, "computer software" means a set of statements
8 or instructions that when incorporated in a machine usable medium
9 is capable of causing a machine or device having information pro-
10 cessing capabilities to indicate, perform or achieve a particu-
11 lar function, task, or result

12 (g) "Sale at retail" does not include an isolated transac-
13 tion by a person not licensed or required to be licensed under
14 this act, in which tangible personal property is offered for
15 sale, sold, transferred, and delivered by the owner

16 (h) "Gross proceeds" means the amount received in money
17 credits, subsidies property, or other money's worth in consider-
18 ation of a sale at retail within this state, without a deduction
19 for the cost of the property sold, the cost of material used, the
20 cost of labor or service purchased an amount paid for interest
21 or a discount, a tax paid on cigarettes or tobacco products at
22 the time of purchase, a tax paid on beer or liquor at the time of
23 purchase or other expenses Also, a deduction is not allowed for
24 losses Gross proceeds does not include an amount received or
25 billed by the taxpayer for remittance to the employee as a gratui-
26 ty or tip, if the gratuity or tip is separately identified and
27 itemized on the guest check or billed to the customer In a

1 taxable sale at retail of a motor vehicle, if another motor
2 vehicle is used as part payment of the purchase price, the value
3 of the motor vehicle used as part payment of the purchase price
4 shall be that value agreed to by the parties to the sale as evi-
5 denced by the signed statement executed pursuant to section 251
6 of the Michigan vehicle code, Act No 300 of the Public Acts of
7 1949, as amended being section 257 251 of the Michigan Compiled
8 Laws ~~For a sale at retail of a motor vehicle or trailer coach~~
9 ~~with a transfer of a used motor vehicle or trailer coach, for a~~
10 ~~sale at retail of a titled watercraft with a transfer of a used~~
11 ~~titled watercraft, or for a sale at retail of an aircraft with a~~
12 ~~transfer of a used aircraft made on or after March 14 1984 and~~
13 ~~on or before February 1, 1985, the gross proceeds attributable to~~
14 ~~the sale at retail shall equal 30% of the value of the used motor~~
15 ~~vehicle used trailer coach used aircraft or used titled water-~~
16 ~~craft used as part payment of the purchase price, or 30% of the~~
17 ~~value of a motor vehicle as represented by an unexpired certifi-~~
18 ~~cate issued pursuant to section 7 or 7a that is presented in con-~~
19 ~~nection with the sale at retail of a motor vehicle or trailer~~
20 ~~coach, subtracted from the full retail price of the motor vehi-~~
21 ~~cle, trailer coach aircraft or titled watercraft being~~
22 ~~purchased~~ IF A MOTOR VEHICLE, TRAILER COACH, AIRCRAFT, OR
23 TITLED WATERCRAFT IS USED AS PART PAYMENT IN A TAXABLE SALE AT
24 RETAIL OF ANOTHER MOTOR VEHICLE, TRAILER COACH AIRCRAFT, OR
25 TITLED WATERCRAFT, RESPECTIVELY THE GROSS PROCEEDS IS THE DIF-
26 FERENCE BETWEEN THE AGREED UPON VALUE OF THE MOTOR VEHICLE,
27 TRAILER COACH, AIRCRAFT, OR TITLED WATERCRAFT USED AS PART

1 PAYMENT OF THE PURCHASE PRICE AND THE FULL RETAIL PRICE OF THE
2 MOTOR VEHICLE, TRAILER COACH, AIRCRAFT, OR TITLED WATERCRAFT
3 BEING PURCHASED A credit or refund for returned goods may be
4 deducted

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

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

12 (k) "Department" means the revenue division of the depart-
13 ment of treasury

14 (l) "Taxpayer" means a person subject to a tax under this
15 act

16 (m) "Tax" includes a tax, interest, or penalty levied under
17 this act

18 (2) If the department determines that it is necessary for
19 the efficient administration of this act to regard an unlicensed
20 person including a salesperson representative peddler or can-
21 vasser as the agent of the dealer, distributor supervisor, or
22 employer under whom the unlicensed person operates or from whom
23 the unlicensed person obtains the tangible personal property sold
24 by the unlicensed person, irrespective of whether the unlicensed
25 person is making sales on the unlicensed person's own behalf or
26 on behalf of the dealer, distributor, supervisor or employer
27 the department may so regard the unlicensed person and may regard

1 the dealer, distributor supervisor, or employer as making sales
2 at retail at the retail price for the purposes of this act

Filed

Official SB

Secretary

Passed the Senate

Secretary of the Senate

Passed the House

Co Clerk of the House of Representatives

