

**SUBSTITUTE FOR
SENATE BILL NO. 824**

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3, 4, and 4q (MCL 205.93, 205.94, and
205.94q), section 3 as amended by 2002 PA 110, section 4 as
amended by 2001 PA 39, and section 4q as added by 1999 PA 117,
and by adding section 3b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) There is levied upon and there shall be col-
2 lected from every person in this state a specific tax for the
3 privilege of using, storing, or consuming tangible personal prop-
4 erty in this state at a rate equal to 6% of the price of the
5 property or services specified in section 3a OR 3B. Penalties
6 and interest shall be added to the tax if applicable as provided
7 in this act. For the purpose of the proper administration of
8 this act and to prevent the evasion of the tax, it is presumed

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1 that tangible personal property purchased is subject to the tax
2 if brought into the state within 90 days of the purchase date and
3 is considered as acquired for storage, use, or other consumption
4 in this state.

5 (2) The tax imposed by this section for the privilege of
6 using, storing, or consuming a vehicle, ORV, mobile home, air-
7 craft, snowmobile, or watercraft shall be collected before the
8 transfer of the vehicle, ORV, mobile home, aircraft, snowmobile,
9 or watercraft, except a transfer to a licensed dealer or retailer
10 for purposes of resale that arises by reason of a transaction
11 made by a person who does not transfer vehicles, ORVs, mobile
12 homes, aircraft, snowmobiles, or watercraft in the ordinary
13 course of his or her business done in this state. The tax on a
14 vehicle, ORV, snowmobile, and watercraft shall be collected by
15 the secretary of state before the transfer of the vehicle, ORV,
16 snowmobile, or watercraft registration. The tax on a mobile home
17 shall be collected by the department of consumer and industry
18 services, mobile home commission, or its agent before the trans-
19 fer of the certificate of title. The tax on an aircraft shall be
20 collected by the department of treasury. Notwithstanding any
21 limitation contained in section 2 and except as provided in this
22 subsection, the price tax base of any vehicle, ORV, mobile home,
23 aircraft, snowmobile, or watercraft subject to taxation under
24 this act shall be not less than its retail dollar value at the
25 time of acquisition as fixed pursuant to rules promulgated by the
26 department. The price tax base of a new or previously owned car
27 or truck held for resale by a dealer and that is not exempt under

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1 section 4(1)(c) is the purchase price of the car or truck
2 multiplied by 2.5% plus \$30.00 per month beginning with the month
3 that the dealer uses the car or truck in a nonexempt manner.

4 (3) The following transfers or purchases are not subject to
5 use tax:

6 (a) A transaction or a portion of a transaction if the
7 transferee or purchaser is the spouse, mother, father, brother,
8 sister, child, stepparent, stepchild, stepbrother, stepsister,
9 grandparent, grandchild, legal ward, or a legally appointed
10 guardian with a certified letter of guardianship, of the
11 transferor.

12 (b) A transaction or a portion of a transaction if the
13 transfer is a gift to a beneficiary in the administration of an
14 estate.

15 (c) If a vehicle, ORV, mobile home, aircraft, snowmobile, or
16 watercraft that has once been subjected to the Michigan sales or
17 use tax is transferred in connection with the organization, reor-
18 ganization, dissolution, or partial liquidation of an incorpo-
19 rated or unincorporated business and the beneficial ownership is
20 not changed.

21 (d) If an insurance company licensed to conduct business in
22 this state acquires ownership of a late model distressed vehicle
23 as defined in section 12a of the Michigan vehicle code, 1949
24 PA 300, MCL 257.12a, through payment of damages in response to a
25 claim or when the person who owned the vehicle before the insur-
26 ance company reacquires ownership from the company as part of the
27 settlement of a claim.

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1 (4) The department may utilize the services, information, or
2 records of any other department or agency of state government in
3 the performance of its duties under this act, and other depart-
4 ments or agencies of state government are required to furnish
5 those services, information, or records upon the request of the
6 department.

7 SEC. 3B. (1) THE USE OR CONSUMPTION OF MOBILE TELECOMMUNI-
8 CATIONS SERVICES IS SUBJECT TO THE TAX LEVIED UNDER THIS ACT IN
9 THE SAME MANNER AS TANGIBLE PERSONAL PROPERTY REGARDLESS OF WHERE
10 THE MOBILE TELECOMMUNICATIONS SERVICES ORIGINATE, TERMINATE, OR
11 PASS THROUGH, SUBJECT TO ALL OF THE FOLLOWING:

12 (A) MOBILE TELECOMMUNICATIONS SERVICES PROVIDED TO A CUSTOM-
13 ER, THE CHARGES FOR WHICH ARE BILLED BY OR FOR THE CUSTOMER'S
14 HOME SERVICE PROVIDER, ARE CONSIDERED TO BE PROVIDED BY THE
15 CUSTOMER'S HOME SERVICE PROVIDER IF THE CUSTOMER'S PLACE OF PRI-
16 MARY USE FOR THE MOBILE TELECOMMUNICATIONS SERVICES IS IN THIS
17 STATE. IF THE CUSTOMER'S PLACE OF PRIMARY USE FOR MOBILE TELE-
18 COMMUNICATIONS SERVICES IS OUTSIDE OF THIS STATE, THE MOBILE
19 TELECOMMUNICATIONS SERVICES ARE NOT SUBJECT TO THE TAX LEVIED
20 UNDER THIS ACT.

21 (B) A HOME SERVICE PROVIDER IS RESPONSIBLE FOR OBTAINING AND
22 MAINTAINING A RECORD OF THE CUSTOMER'S PLACE OF PRIMARY USE.
23 SUBJECT TO SUBSECTION (2), IN OBTAINING AND MAINTAINING A RECORD
24 OF THE CUSTOMER'S PLACE OF PRIMARY USE, A HOME SERVICE PROVIDER
25 MAY DO ALL OF THE FOLLOWING:

26 (i) RELY IN GOOD FAITH ON INFORMATION PROVIDED BY A CUSTOMER
27 AS TO THE CUSTOMER'S PLACE OF PRIMARY USE.

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1 (ii) TREAT THE ADDRESS USED FOR A CUSTOMER UNDER A SERVICE
2 CONTRACT OR AGREEMENT IN EFFECT ON AUGUST 1, 2002 AS THAT
3 CUSTOMER'S PLACE OF PRIMARY USE FOR THE REMAINING TERM OF THE
4 SERVICE CONTRACT OR AGREEMENT, EXCLUDING ANY EXTENSION OR RENEWAL
5 OF THE SERVICE CONTRACT OR AGREEMENT.

6 (C) NOTWITHSTANDING SECTION 9 AND SUBJECT TO SUBSECTION (5),
7 IF THE DEPARTMENT CHOOSES TO CREATE OR PROVIDE A DATABASE THAT
8 COMPLIES WITH THE PROVISIONS OF 4 U.S.C. 119, A HOME SERVICE PRO-
9 VIDER SHALL USE THAT DATABASE TO DETERMINE THE ASSIGNMENT OF THE
10 CUSTOMER'S PLACE OF PRIMARY USE TO THIS STATE. IF A DATABASE IS
11 NOT PROVIDED BY THE DEPARTMENT, A HOME SERVICE PROVIDER MAY USE
12 AN ENHANCED ZIP CODE TO DETERMINE THE ASSIGNMENT OF THE
13 CUSTOMER'S PLACE OF PRIMARY USE TO THIS STATE. A HOME SERVICE
14 PROVIDER THAT USES A DATABASE PROVIDED BY THE DEPARTMENT IS NOT
15 LIABLE FOR ANY TAX THAT OTHERWISE WOULD BE DUE SOLELY AS A RESULT
16 OF AN ERROR OR OMISSION IN THAT DATABASE. A HOME SERVICE PRO-
17 VIDER THAT USES AN ENHANCED ZIP CODE IS NOT LIABLE FOR ANY TAX
18 THAT OTHERWISE WOULD BE DUE SOLELY AS A RESULT OF AN ASSIGNMENT
19 OF A STREET ADDRESS TO ANOTHER STATE IF THE HOME PROVIDER EXER-
20 CISED DUE DILIGENCE TO ENSURE THAT THE APPROPRIATE STREET
21 ADDRESSES ARE ASSIGNED TO THIS STATE.

22 (D) IF A CUSTOMER BELIEVES THAT THE AMOUNT OF THE TAX LEVIED
23 UNDER THIS ACT OR THAT THE HOME SERVICE PROVIDER'S RECORD OF THE
24 CUSTOMER'S PLACE OF PRIMARY USE IS INCORRECT, THE CUSTOMER SHALL
25 NOTIFY THE HOME SERVICE PROVIDER IN WRITING AND PROVIDE ALL OF
26 THE FOLLOWING INFORMATION:

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1 (i) THE STREET ADDRESS OF THE CUSTOMER'S PLACE OF PRIMARY
2 USE.

3 (ii) THE ACCOUNT NAME AND NUMBER FOR WHICH THE CUSTOMER
4 REQUESTS THE CORRECTION.

5 (iii) A DESCRIPTION OF THE ERROR ASSERTED BY THE CUSTOMER.

6 (iv) ANY OTHER INFORMATION THAT THE HOME SERVICE PROVIDER
7 REASONABLY REQUIRES TO PROCESS THE REQUEST.

8 (E) NOT LATER THAN 60 DAYS AFTER THE HOME SERVICE PROVIDER
9 RECEIVES A REQUEST UNDER SUBDIVISION (D) OR SUBSECTION (5)(B),
10 THE HOME SERVICE PROVIDER SHALL REVIEW ITS RECORD OF THE
11 CUSTOMER'S PLACE OF PRIMARY USE AND THE CUSTOMER'S ENHANCED ZIP
12 CODE TO DETERMINE THE CORRECT AMOUNT OF THE TAX LEVIED UNDER THIS
13 ACT. IF THE HOME SERVICE PROVIDER DETERMINES THAT THE TAX LEVIED
14 UNDER THIS ACT OR ITS RECORD OF THE CUSTOMER'S PLACE OF PRIMARY
15 USE IS INCORRECT, THE HOME SERVICE PROVIDER SHALL CORRECT THE
16 ERROR AND REFUND OR CREDIT ANY TAX ERRONEOUSLY COLLECTED FROM THE
17 CUSTOMER. A REFUND UNDER THIS SUBDIVISION SHALL NOT EXCEED A
18 PERIOD OF 4 YEARS. IF THE HOME SERVICE PROVIDER DETERMINES THAT
19 THE TAX LEVIED UNDER THIS ACT AND THE CUSTOMER'S PLACE OF PRIMARY
20 USE ARE CORRECT, THE HOME SERVICE PROVIDER SHALL PROVIDE A WRIT-
21 TEN EXPLANATION OF THAT DETERMINATION TO THE CUSTOMER. THE PRO-
22 CEDURES PRESCRIBED IN THIS SUBDIVISION AND IN SUBDIVISION (D) ARE
23 THE FIRST COURSE OF REMEDY AVAILABLE TO A CUSTOMER REQUESTING A
24 CORRECTION OF THE PROVIDER'S RECORD OF PLACE OF PRIMARY USE OR A
25 REFUND OF TAXES ERRONEOUSLY COLLECTED BY THE HOME SERVICE
26 PROVIDER.

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1 (2) IF THE DEPARTMENT MAKES A FINAL DETERMINATION THAT THE
2 HOME SERVICE PROVIDER'S RECORD OF A CUSTOMER'S PLACE OF PRIMARY
3 USE IS INCORRECT, THE HOME SERVICE PROVIDER SHALL CHANGE ITS
4 RECORDS TO REFLECT THAT FINAL DETERMINATION. THE CORRECTED
5 RECORD OF A CUSTOMER'S PLACE OF PRIMARY USE SHALL BE USED TO CAL-
6 CULATE THE TAX LEVIED UNDER THIS ACT PROSPECTIVELY, FROM THE DATE
7 OF THE DEPARTMENT'S FINAL DETERMINATION. THE DEPARTMENT SHALL
8 NOT MAKE A FINAL DETERMINATION UNDER THIS SUBSECTION BEFORE THE
9 DEPARTMENT HAS NOTIFIED THE CUSTOMER THAT THE DEPARTMENT HAS
10 FOUND THAT THE HOME SERVICE PROVIDER'S RECORD OF THE CUSTOMER'S
11 PLACE OF PRIMARY USE IS INCORRECT AND THE CUSTOMER HAS BEEN
12 AFFORDED AN OPPORTUNITY TO APPEAL THAT FINDING. AN APPEAL TO THE
13 DEPARTMENT SHALL BE CONDUCTED ACCORDING TO THE PROVISION OF SEC-
14 TION 22 OF 1941 PA 122, MCL 205.22.

15 (3) NOTWITHSTANDING SECTION 8 AND SUBJECT TO SECTION 5, IF
16 THE DEPARTMENT MAKES A FINAL DETERMINATION UNDER SUBSECTION (2)
17 THAT A CUSTOMER'S PLACE OF PRIMARY USE IS INCORRECT, A HOME SERV-
18 ICE PROVIDER IS NOT LIABLE FOR ANY TAXES THAT WOULD HAVE BEEN
19 LEVIED UNDER THIS ACT IF THE CUSTOMER'S PLACE OF PRIMARY USE HAD
20 BEEN CORRECT.

21 (4) IF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES AND
22 OTHER BILLED SERVICES NOT SUBJECT TO THE TAX LEVIED UNDER THIS
23 ACT ARE AGGREGATED WITH AND NOT SEPARATELY STATED FROM CHARGES
24 FOR MOBILE TELECOMMUNICATIONS SERVICES THAT ARE SUBJECT TO THE
25 TAX LEVIED UNDER THIS ACT, THE NONTAXABLE MOBILE TELECOMMUNICA-
26 TIONS SERVICES AND OTHER BILLED SERVICES ARE SUBJECT TO THE TAX
27 LEVIED UNDER THIS ACT UNLESS THE HOME SERVICE PROVIDER CAN

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1 REASONABLY IDENTIFY BILLINGS FOR SERVICES NOT SUBJECT TO THE TAX
2 LEVIED UNDER THIS ACT FROM ITS BOOKS AND RECORDS KEPT IN THE REG-
3 ULAR COURSE OF BUSINESS.

4 (5) IF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES AND
5 OTHER BILLED SERVICES NOT SUBJECT TO THE TAX LEVIED UNDER THIS
6 ACT ARE AGGREGATED WITH AND NOT SEPARATELY STATED FROM CHARGES
7 FOR MOBILE TELECOMMUNICATIONS SERVICES THAT ARE SUBJECT TO THE
8 TAX LEVIED UNDER THIS ACT, A CUSTOMER MAY NOT RELY UPON THE
9 EXEMPT STATUS FOR THOSE MOBILE TELECOMMUNICATIONS SERVICES AND
10 OTHER BILLED SERVICES UNLESS 1 OR MORE OF THE FOLLOWING CONDI-
11 TIONS ARE SATISFIED:

12 (A) THE CUSTOMER'S HOME SERVICE PROVIDER SEPARATELY STATES
13 THE CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES THAT ARE
14 EXEMPT AND OTHER EXEMPT BILLED SERVICES FROM TAXABLE MOBILE TELE-
15 COMMUNICATIONS SERVICES.

16 (B) THE HOME SERVICE PROVIDER ELECTS, AFTER RECEIVING A
17 WRITTEN REQUEST FROM THE CUSTOMER IN THE FORM REQUIRED BY THE
18 HOME SERVICE PROVIDER, TO IDENTIFY THE EXEMPT MOBILE TELECOMMUNI-
19 CATIONS SERVICES AND OTHER EXEMPT BILLED SERVICES BY REFERENCE TO
20 THE HOME SERVICE PROVIDER'S BOOKS AND RECORDS KEPT IN THE REGULAR
21 COURSE OF BUSINESS.

22 (6) THIS SECTION IS REPEALED AS OF THE DATE OF ENTRY OF A
23 FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION THAT SUBSTAN-
24 TIALY LIMITS OR IMPAIRS THE ESSENTIAL ELEMENTS OF SECTIONS 116
25 TO 126 OF TITLE 4 OF THE UNITED STATES CODE, 4 U.S.C. 116 TO 126,
26 AND THAT FINAL JUDGMENT IS NO LONGER SUBJECT TO APPEAL.

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1 (7) FOR AN AIR-GROUND RADIOTELEPHONE SERVICE, THE TAX UNDER
2 THIS ACT IS IMPOSED AT THE LOCATION OF THE ORIGINATION OF THE
3 AIR-GROUND RADIOTELEPHONE SERVICE IN THIS STATE AS IDENTIFIED BY
4 THE HOME SERVICE PROVIDER OR INFORMATION RECEIVED BY THE HOME
5 SERVICE PROVIDER FROM ITS SERVICING CARRIER.

6 (8) AS USED IN THIS SECTION:

7 (A) "AIR-GROUND RADIOTELEPHONE SERVICE" MEANS THAT TERM AS
8 DEFINED IN 47 C.F.R. PART 22.

9 (B) "COMMERCIAL MOBILE RADIO SERVICE" MEANS THAT TERM AS
10 DEFINED IN 47 C.F.R. 20.3.

11 (C) "CHARGE", "CHARGES", OR "CHARGE FOR MOBILE TELECOMMUNI-
12 CATIONS SERVICES" MEANS ANY CHARGE FOR, OR ASSOCIATED WITH, THE
13 PROVISION OF COMMERCIAL MOBILE RADIO SERVICE, OR ANY CHARGE FOR,
14 OR ASSOCIATED WITH, A SERVICE PROVIDED AS AN ADJUNCT TO A COMMER-
15 CIAL MOBILE RADIO SERVICE, THAT IS BILLED TO A CUSTOMER BY OR FOR
16 THE CUSTOMER'S HOME SERVICE PROVIDER REGARDLESS OF WHETHER INDI-
17 VIDUAL TRANSMISSIONS ORIGINATE OR TERMINATE WITHIN THE LICENSED
18 SERVICE AREA OF THE HOME SERVICE PROVIDER.

19 (D) "CUSTOMER" MEANS 1 OF THE FOLLOWING, BUT DOES NOT
20 INCLUDE A RESELLER OR A SERVING CARRIER:

21 (i) THE PERSON WHO CONTRACTS WITH THE HOME SERVICE PROVIDER
22 FOR MOBILE TELECOMMUNICATIONS SERVICES.

23 (ii) IF THE END USER OF MOBILE TELECOMMUNICATIONS SERVICES
24 IS NOT THE CONTRACTING PARTY, THEN THE END USER OF THE MOBILE
25 TELECOMMUNICATIONS SERVICE. THIS SUBPARAGRAPH APPLIES ONLY FOR
26 THE PURPOSE OF DETERMINING THE PLACE OF PRIMARY USE.

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1 (E) "ENHANCED ZIP CODE" MEANS A UNITED STATES POSTAL ZIP
2 CODE OF 9 OR MORE DIGITS.

3 (F) "HOME SERVICE PROVIDER" MEANS THE FACILITIES-BASED CAR-
4 RIER OR RESELLER THAT ENTERS INTO A CONTRACT WITH A CUSTOMER FOR
5 MOBILE TELECOMMUNICATIONS SERVICES.

6 (G) "LICENSED SERVICE AREA" MEANS THE GEOGRAPHIC AREA IN
7 WHICH A HOME SERVICE PROVIDER IS AUTHORIZED BY LAW OR CONTRACT TO
8 PROVIDE COMMERCIAL MOBILE RADIO SERVICES TO ITS CUSTOMERS.

9 (H) "MOBILE TELECOMMUNICATIONS SERVICES" MEANS COMMERCIAL
10 MOBILE RADIO SERVICES THAT ORIGINATE AND TERMINATE IN THE SAME
11 STATE OR ORIGINATE IN 1 STATE AND TERMINATE IN ANOTHER STATE.
12 MOBILE TELECOMMUNICATIONS SERVICES DO NOT INCLUDE PREPAID MOBILE
13 TELECOMMUNICATIONS SERVICES OR AIR-GROUND RADIOTELEPHONE
14 SERVICE.

15 (I) "PLACE OF PRIMARY USE" MEANS THE RESIDENTIAL STREET
16 ADDRESS OR THE PRIMARY BUSINESS STREET ADDRESS WITHIN THE
17 LICENSED SERVICE AREA OF THE HOME SERVICE PROVIDER AT WHICH A
18 CUSTOMER PRIMARILY USES MOBILE TELECOMMUNICATIONS SERVICES.

19 (J) "PREPAID MOBILE TELECOMMUNICATIONS SERVICE" MEANS THE
20 ADVANCE PURCHASE OF EXCLUSIVE MOBILE TELECOMMUNICATIONS SERVICES,
21 WHICH ENABLES THE ORIGINATION OF CALLS USING AN ACCESS NUMBER OR
22 AUTHORIZATION CODE, WHETHER MANUALLY OR ELECTRONICALLY DIALED, IF
23 THE REMAINING UNITS OF SERVICE ARE KNOWN BY THE PROVIDER OF THE
24 SERVICE ON A CONTINUOUS BASIS.

25 (K) "RESELLER" MEANS A TELECOMMUNICATIONS SERVICES PROVIDER
26 WHO PURCHASES TELECOMMUNICATIONS SERVICES FROM ANOTHER
27 TELECOMMUNICATIONS SERVICES PROVIDER AND THEN RESELLS THE

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1 TELECOMMUNICATION SERVICES, USES THE TELECOMMUNICATION SERVICES
2 AS A COMPONENT PART OF A MOBILE TELECOMMUNICATIONS SERVICE, OR
3 INTEGRATES THE TELECOMMUNICATION SERVICES INTO A MOBILE TELECOM-
4 MUNICATIONS SERVICE. RESELLER DOES NOT INCLUDE A SERVING
5 CARRIER.

6 (l) "SERVING CARRIER" MEANS A FACILITIES-BASED TELECOMMUNI-
7 CATIONS SERVICES PROVIDER THAT CONTRACTS WITH A HOME SERVICE PRO-
8 VIDER FOR MOBILE TELECOMMUNICATIONS SERVICES TO A CUSTOMER OUT-
9 SIDE OF THE HOME SERVICE PROVIDER'S OR RESELLER'S LICENSED SERV-
10 ICE AREA.

11 Sec. 4. (1) The tax levied under this act does not apply to
12 the following, subject to subsection (2):

13 (a) Property sold in this state on which transaction a tax
14 is paid under the general sales tax act, 1933 PA 167, MCL 205.51
15 to 205.78, if the tax was due and paid on the retail sale to a
16 consumer.

17 (b) Property, the storage, use, or other consumption of
18 which this state is prohibited from taxing under the constitution
19 or laws of the United States, or under the constitution of this
20 state.

21 (c) Property purchased for resale, demonstration purposes,
22 or lending or leasing to a public or parochial school offering a
23 course in automobile driving except that a vehicle purchased by
24 the school shall be certified for driving education and shall not
25 be reassigned for personal use by the school's administrative
26 personnel. For a dealer selling a new car or truck, exemption
27 for demonstration purposes shall be determined by the number of

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1 new cars and trucks sold during the current calendar year or the
2 immediately preceding year without regard to specific make or
3 style according to the following schedule of 0 to 25, 2 units; 26
4 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but
5 not to exceed 25 cars and trucks in 1 calendar year for demon-
6 stration purposes. Property purchased for resale includes promo-
7 tional merchandise transferred pursuant to a redemption offer to
8 a person located outside this state or any packaging material,
9 other than promotional merchandise, acquired for use in fulfill-
10 ing a redemption offer or rebate to a person located outside this
11 state.

12 (d) Property that is brought into this state by a nonresi-
13 dent person for storage, use, or consumption while temporarily
14 within this state, except if the property is used in this state
15 in a nontransitory business activity for a period exceeding 15
16 days.

17 (e) Property the sale or use of which was already subjected
18 to a sales tax or use tax equal to, or in excess of, that imposed
19 by this act under the law of any other state or a local govern-
20 mental unit within a state if the tax was due and paid on the
21 retail sale to the consumer and the state or local governmental
22 unit within a state in which the tax was imposed accords like or
23 complete exemption on property the sale or use of which was sub-
24 jected to the sales or use tax of this state. If the sale or use
25 of property was already subjected to a tax under the law of any
26 other state or local governmental unit within a state in an
27 amount less than the tax imposed by this act, this act shall

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1 apply, but at a rate measured by the difference between the rate
2 provided in this act and the rate by which the previous tax was
3 computed.

4 (f) Property sold to a person engaged in a business enter-
5 prise and using and consuming the property in the tilling, plant-
6 ing, caring for, or harvesting of the things of the soil or in
7 the breeding, raising, or caring for livestock, poultry, or
8 horticultural products, including transfers of livestock, poul-
9 try, or horticultural products for further growth. At the time
10 of the transfer of that tangible personal property, the trans-
11 feree shall sign a statement, in a form approved by the depart-
12 ment, stating that the property is to be used or consumed in con-
13 nection with the production of horticultural or agricultural pro-
14 ducts as a business enterprise. The statement shall be accepted
15 by the courts as prima facie evidence of the exemption. This
16 exemption includes agricultural land tile, which means fired clay
17 or perforated plastic tubing used as part of a subsurface drain-
18 age system for land used in the production of agricultural pro-
19 ducts as a business enterprise and includes a portable grain bin,
20 which means a structure that is used or is to be used to shelter
21 grain and that is designed to be disassembled without significant
22 damage to its component parts. This exemption does not include
23 transfers of food, fuel, clothing, or similar tangible personal
24 property for personal living or human consumption. This exemp-
25 tion does not include tangible personal property permanently
26 affixed and becoming a structural part of real estate.

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1 (g) Property or services sold to the United States, an
2 unincorporated agency or instrumentality of the United States, an
3 incorporated agency or instrumentality of the United States
4 wholly owned by the United States or by a corporation wholly
5 owned by the United States, the American red cross and its chap-
6 ters or branches, this state, a department or institution of this
7 state, or a political subdivision of this state.

8 (h) Property or services sold to a school, hospital, or home
9 for the care and maintenance of children or aged persons, oper-
10 ated by an entity of government, a regularly organized church,
11 religious, or fraternal organization, a veterans' organization,
12 or a corporation incorporated under the laws of this state, if
13 not operated for profit, and if the income or benefit from the
14 operation does not inure, in whole or in part, to an individual
15 or private shareholder, directly or indirectly, and if the activ-
16 ities of the entity or agency are carried on exclusively for the
17 benefit of the public at large and are not limited to the advan-
18 tage, interests, and benefits of its members or a restricted
19 group. The tax levied does not apply to property or services
20 sold to a parent cooperative preschool. As used in this subdivi-
21 sion, "parent cooperative preschool" means a nonprofit, nondis-
22 criminatory educational institution, maintained as a community
23 service and administered by parents of children currently
24 enrolled in the preschool that provides an educational and devel-
25 opmental program for children younger than compulsory school age,
26 that provides an educational program for parents, including
27 active participation with children in preschool activities, that

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1 is directed by qualified preschool personnel, and that is
2 licensed by the department of consumer and industry services pur-
3 suant to 1973 PA 116, MCL 722.111 to 722.128.

4 (i) Property or services sold to a regularly organized
5 church or house of religious worship except the following:

6 (i) Sales in which the property is used in activities that
7 are mainly commercial enterprises.

8 (ii) Sales of vehicles licensed for use on the public high-
9 ways other than a passenger van or bus with a manufacturer's
10 rated seating capacity of 10 or more that is used primarily for
11 the transportation of persons for religious purposes.

12 (j) A vessel designed for commercial use of registered ton-
13 nage of 500 tons or more, if produced upon special order of the
14 purchaser, and bunker and galley fuel, provisions, supplies,
15 maintenance, and repairs for the exclusive use of a vessel of 500
16 tons or more engaged in interstate commerce.

17 (k) Property purchased for use in this state where actual
18 personal possession is obtained outside this state, the purchase
19 price or actual value of which does not exceed \$10.00 during 1
20 calendar month.

21 (l) A newspaper or periodical classified under federal
22 postal laws and regulations effective September 1, 1985 as
23 second-class mail matter or as a controlled circulation publica-
24 tion or qualified to accept legal notices for publication in this
25 state, as defined by law, or any other newspaper or periodical of
26 general circulation, established at least 2 years, and published
27 at least once a week, and a copyrighted motion picture film.

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1 Tangible personal property used or consumed in producing a
2 copyrighted motion picture film, a newspaper published more than
3 14 times per year, or a periodical published more than 14 times
4 per year, and not becoming a component part of that film, newspa-
5 per, or periodical is subject to the tax. After December 31,
6 1993, tangible personal property used or consumed in producing a
7 newspaper published 14 times or less per year or a periodical
8 published 14 times or less per year and that portion or percen-
9 tage of tangible personal property used or consumed in producing
10 an advertising supplement that becomes a component part of a
11 newspaper or periodical is exempt from the tax under this
12 subdivision. A claim for a refund for taxes paid before January
13 1, 1999 under this subdivision shall be made before June 30,
14 1999. For purposes of this subdivision, tangible personal prop-
15 erty that becomes a component part of a newspaper or periodical
16 and consequently not subject to tax, includes an advertising sup-
17 plement inserted into and circulated with a newspaper or periodi-
18 cal that is otherwise exempt from tax under this subdivision, if
19 the advertising supplement is delivered directly to the newspaper
20 or periodical by a person other than the advertiser, or the
21 advertising supplement is printed by the newspaper or
22 periodical.

23 (m) Property purchased by persons licensed to operate a com-
24 mercial radio or television station if the property is used in
25 the origination or integration of the various sources of program
26 material for commercial radio or television transmission. This
27 subdivision does not include a vehicle licensed and titled for

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1 use on public highways or property used in the transmitting to or
2 receiving from an artificial satellite.

3 (n) A person who is a resident of this state who purchases
4 an automobile in another state while in the military service of
5 the United States and who pays a sales tax in the state where the
6 automobile is purchased.

7 (o) A vehicle for which a special registration is secured in
8 accordance with section 226(12) of the Michigan vehicle code,
9 1949 PA 300, MCL 257.226.

10 (p) A hearing aid, contact lenses if prescribed for a spe-
11 cific disease that precludes the use of eyeglasses, or any other
12 apparatus, device, or equipment used to replace or substitute for
13 any part of the human body, or used to assist the disabled person
14 to lead a reasonably normal life when the tangible personal prop-
15 erty is purchased on a written prescription or order issued by a
16 health professional as defined by section 4 of former 1974
17 PA 264, or section 3501 of the insurance code of 1956, 1956
18 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to
19 correct the person's vision by an ophthalmologist, optometrist,
20 or optician.

21 (q) Water when delivered through water mains or in bulk
22 tanks in quantities of not less than 500 gallons.

23 (r) A vehicle not for resale used by a nonprofit corporation
24 organized exclusively to provide a community with ambulance or
25 fire department services.

26 (s) Tangible personal property purchased and installed as a
27 component part of a water pollution control facility for which a

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1 tax exemption certificate is issued pursuant to part 37 of the
2 natural resources and environmental protection act, 1994 PA 451,
3 MCL 324.3701 to 324.3708, or an air pollution control facility
4 for which a tax exemption certificate is issued pursuant to part
5 59 of the natural resources and environmental protection act,
6 1994 PA 451, MCL 324.5901 to 324.5908.

7 (t) Tangible real or personal property donated by a manufac-
8 turer, wholesaler, or retailer to an organization or entity
9 exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b)
10 of the general sales tax act, 1933 PA 167, MCL 205.54a.

11 (u) The storage, use, or consumption by a domestic air car-
12 rier of an aircraft purchased after December 31, 1992 but before
13 October 1, 1996 for use solely in the transport of air cargo that
14 has a maximum certificated takeoff weight of at least 12,500
15 pounds. For purposes of this subdivision, the term "domestic air
16 carrier" is limited to entities engaged in the commercial trans-
17 port for hire of cargo or entities engaged in the commercial
18 transport of passengers as a business activity.

19 (v) The storage, use, or consumption by a domestic air car-
20 rier of an aircraft purchased after June 30, 1994 but before
21 October 1, 1996 that is used solely in the regularly scheduled
22 transport of passengers. For purposes of this subdivision, the
23 term "domestic air carrier" is limited to entities engaged in the
24 commercial transport for hire of cargo or entities engaged in the
25 commercial transport of passengers as a business activity.

26 (w) The storage, use, or consumption by a domestic air
27 carrier of an aircraft, other than an aircraft described under

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1 subdivision (v), purchased after December 31, 1994 but before
2 October 1, 1996, that has a maximum certificated takeoff weight
3 of at least 12,500 pounds and that is designed to have a maximum
4 passenger seating configuration of more than 30 seats and used
5 solely in the transport of passengers. For purposes of this sub-
6 division, the term "domestic air carrier" is limited to entities
7 engaged in the commercial transport for hire of cargo or entities
8 engaged in the commercial transport of passengers as a business
9 activity.

10 (x) The storage, use, or consumption of an aircraft by a
11 domestic air carrier after September 30, 1996 for use solely in
12 the transport of air cargo, passengers, or a combination of air
13 cargo and passengers, that has a maximum certificated takeoff
14 weight of at least 6,000 pounds. For purposes of this subdivi-
15 sion, the term "domestic air carrier" is limited to a person
16 engaged primarily in the commercial transport for hire of air
17 cargo, passengers, or a combination of air cargo and passengers
18 as a business activity. The state treasurer shall estimate on
19 January 1 each year the revenue lost by this act from the school
20 aid fund and deposit that amount into the school aid fund from
21 the general fund.

22 (y) The storage, use, or consumption of an aircraft by a
23 person who purchases the aircraft for subsequent lease to a
24 domestic air carrier operating under a certificate issued by the
25 federal aviation administration under 14 C.F.R. PART 121, for use
26 solely in the regularly scheduled transport of passengers.

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1 (z) Property or services sold to an organization not
2 operated for profit and exempt from federal income tax under
3 section 501(c)(3) or 501(c)(4) of the internal revenue code of
4 1986, 26 U.S.C. 501; or to a health, welfare, educational, cul-
5 tural arts, charitable, or benevolent organization not operated
6 for profit that has been issued before June 13, 1994 an exemption
7 ruling letter to purchase items exempt from tax signed by the
8 administrator of the sales, use, and withholding taxes division
9 of the department. The department shall reissue an exemption
10 letter after June 13, 1994 to each of those organizations that
11 had an exemption letter that shall remain in effect unless the
12 organization fails to meet the requirements that originally enti-
13 tled it to this exemption. The exemption does not apply to sales
14 of tangible personal property and sales of vehicles licensed for
15 use on public highways, that are not used primarily to carry out
16 the purposes of the organization as stated in the bylaws or arti-
17 cles of incorporation of the exempt organization.

18 (aa) The use or consumption of services described in
19 section 3a(a) or (c) OR 3B by means of a prepaid telephone call-
20 ing card, a prepaid authorization number for telephone use, or a
21 charge for internet access.

22 (bb) The purchase, lease, use, or consumption of the follow-
23 ing by an industrial laundry after December 31, 1997:

24 (i) Textiles and disposable products including, but not
25 limited to, soap, paper, chemicals, tissues, deodorizers and dis-
26 pensers, and all related items such as packaging, supplies,
27 hangers, name tags, and identification tags.

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1 (ii) Equipment, whether owned or leased, used to repair and
2 dispense textiles including, but not limited to, roll towel cabi-
3 nets, slings, hardware, lockers, mop handles and frames, and
4 carts.

5 (iii) Machinery, equipment, parts, lubricants, and repair
6 services used to clean, process, and package textiles and related
7 items, whether owned or leased.

8 (iv) Utilities such as electric, gas, water, or oil.

9 (v) Production washroom equipment and mending and packaging
10 supplies and equipment.

11 (vi) Material handling equipment including, but not limited
12 to, conveyors, racks, and elevators and related control
13 equipment.

14 (vii) Wastewater pretreatment equipment and supplies and
15 related maintenance and repair services.

16 (2) The property or services under subsection (1) are exempt
17 only to the extent that the property or services are used for the
18 exempt purposes if one is stated in subsection (1). The exemp-
19 tion is limited to the percentage of exempt use to total use
20 determined by a reasonable formula or method approved by the
21 department.

22 Sec. 4q. (1) The tax levied under this act does not apply
23 to the purchase of machinery and equipment for use or consumption
24 in the rendition of any combination of services, the use or con-
25 sumption of which is taxable under section 3a(a) or (c) OR 3B
26 except that this exemption is limited to the tangible personal
27 property located on the premises of the subscriber and to central

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1 office equipment or wireless equipment, directly used or consumed
2 in transmitting, receiving, or switching, or in the monitoring of
3 switching of a 2-way interactive communication. As used in this
4 subsection, central office equipment or wireless equipment does
5 not include distribution equipment including cable or wire
6 facilities.

7 (2) Beginning April 1, 1999, the property under subsection
8 (1) is exempt only to the extent that the property is used for
9 the exempt purposes stated in this section. There is an irrebut-
10 table presumption that 90% of total use is for exempt purposes.
11 This presumption is in effect until April 1, 2006, at which time
12 the presumption shall be reviewed and redetermined by the depart-
13 ment of treasury using nonexempt and exempt user information for
14 the previous 12-month period. That redetermined irrebuttable
15 presumption shall be in effect for the following 7 years. The
16 irrebuttable presumption shall be reviewed and redetermined every
17 7 years after April 1, 2006 and applied to the following 7
18 years.

19 Enacting section 1. This amendatory act does not take
20 effect unless all of the following bills of the 91st Legislature
21 are enacted into law:

22 (a) Senate Bill No. 477.

23 (b) Senate Bill No. _____ or House Bill No. _____ (request
24 no. 06065'01 *).