

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 567**

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 1a (MCL 205.51a), as amended by 2008 PA 438.

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
9 to perform a task.

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

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

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

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

21 **(F) "DENTAL PROSTHESIS" MEANS A BRIDGE, CROWN, DENTURE, OR**
22 **OTHER SIMILAR ARTIFICIAL DEVICE USED TO REPAIR OR REPLACE INTRAORAL**
23 **DEFECTS SUCH AS MISSING TEETH, MISSING PARTS OF TEETH, AND MISSING**
24 **SOFT OR HARD STRUCTURES OF THE JAW OR PALATE.**

25 **(G) ~~(F)~~**"Dietary supplement" means any product, other than
26 tobacco, intended to supplement the diet that is all of the
27 following:

1 (i) Required to be labeled as a dietary supplement
2 identifiable by the "supplemental facts" box found on the label as
3 required by 21 CFR 101.36.

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

5 (A) A vitamin.

6 (B) A mineral.

7 (C) An herb or other botanical.

8 (D) An amino acid.

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

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

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

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

27 (I) ~~(h)~~—"Drug" means a compound, substance, or preparation, or

1 any component of a compound, substance, or preparation, other than
2 food or food ingredients, dietary supplements, or alcoholic
3 beverages, intended for human use that is 1 or more of the
4 following:

5 (i) Recognized in the official United States pharmacopoeia,
6 official homeopathic pharmacopoeia of the United States, or
7 official national formulary, or in any of their supplements.

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

10 (iii) Intended to affect the structure or any function of the
11 body.

12 (J) ~~(i)~~—"Durable medical equipment" means equipment for home
13 use, other than mobility enhancing equipment, dispensed pursuant to
14 a prescription, including durable medical equipment repair or
15 replacement parts, that does all of the following:

16 (i) Can withstand repeated use.

17 (ii) Is primarily and customarily used to serve a medical
18 purpose.

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

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

22 (K) ~~(j)~~—"Durable medical equipment repair or replacement
23 parts" includes all components or attachments used in conjunction
24 with durable medical equipment.

25 (L) ~~(k)~~—"Electronic" means relating to technology having
26 electrical, digital, magnetic, wireless, optical, electromagnetic,
27 or similar capabilities.

1 (M) ~~(L)~~—"Lease or rental" means any transfer of possession or
2 control of tangible personal property for a fixed or indeterminate
3 term for consideration and may include future options to purchase
4 or extend. This definition applies only to leases and rentals
5 entered into after September 1, 2004 and has no retroactive impact
6 on leases and rentals that existed on that date. Lease or rental
7 does not include the following subparagraphs (i) through (iii) and
8 includes subparagraph (iv):

9 (i) A transfer of possession or control of tangible personal
10 property under a security agreement or deferred payment plan that
11 requires the transfer of title upon completion of the required
12 payments.

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

18 (iii) The provision of tangible personal property along with
19 an operator for a fixed or indeterminate period of time, where that
20 operator is necessary for the equipment to perform as designed. To
21 be necessary, an operator must do more than maintain, inspect, or
22 set up the tangible personal property.

23 (iv) An agreement covering motor vehicles or trailers if the
24 amount of consideration may be increased or decreased by reference
25 to the amount realized upon sale or disposition of the property as
26 defined in section 7701(h)(1) of the internal revenue code, 26 USC
27 7701.

1 **(N)** ~~(m)~~—"Mobility enhancing equipment" means equipment, other
2 than durable medical equipment or a motor vehicle or equipment on a
3 motor vehicle normally provided by a motor vehicle manufacturer,
4 dispensed pursuant to a prescription, including repair or
5 replacement parts for that equipment, that is all of the following:

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

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

10 **(O)** ~~(n)~~—"Prescription" means an order, formula, or recipe,
11 issued in any form of oral, written, electronic, or other means of
12 transmission by a licensed physician or other health professional
13 as defined in section 3501 of the insurance code of 1956, 1956 PA
14 218, MCL 500.3501. For a hearing aid, prescription includes an
15 order, instruction, or direction of a hearing aid dealer or
16 salesperson licensed under article 13 of the occupational code,
17 1980 PA 299, MCL 339.1301 to 339.1309.

18 **(P)** ~~(o)~~—"Prewritten computer software" means computer
19 software, including prewritten upgrades, that is delivered by any
20 means and that is not designed and developed by the author or other
21 creator to the specifications of a specific purchaser. Prewritten
22 computer software includes the following:

23 (i) Any combination of 2 or more prewritten computer software
24 programs or portions of prewritten computer software programs.

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

1 (iii) The modification or enhancement of prewritten computer
2 software or portions of prewritten computer software where the
3 modification or enhancement is designed and developed to the
4 specifications of a specific purchaser unless there is a
5 reasonable, separately stated charge or an invoice or other
6 statement of the price is given to the purchaser for the
7 modification or enhancement. If a person other than the original
8 author or creator modifies or enhances prewritten computer
9 software, that person is considered to be the author or creator of
10 only that person's modifications or enhancements.

11 (Q) ~~(P)~~ "Prosthetic device" means a replacement, corrective,
12 or supportive device, other than contact lenses and dental
13 prosthesis, dispensed pursuant to a prescription, including repair
14 or replacement parts for that device, worn on or in the body to do
15 1 or more of the following:

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

17 (ii) Prevent or correct a physical deformity or malfunction of
18 the body.

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

20 (R) ~~(Q)~~ "Tangible personal property" means personal property
21 that can be seen, weighed, measured, felt, or touched or that is in
22 any other manner perceptible to the senses and includes
23 electricity, water, gas, steam, and prewritten computer software.

24 (S) ~~(R)~~ "Tobacco" means cigarettes, cigars, chewing or pipe
25 tobacco, or any other item that contains tobacco.

26 Enacting section 1. This amendatory act is retroactive and is
27 effective beginning July 1, 2017.

1 Enacting section 2. This amendatory act does not take effect
2 unless House Bill No. 5173 of the 99th Legislature is enacted into
3 law.