

By Senator Burt

16-391-98

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A bill to be entitled  
An act relating to the tax on sales, use, and  
other transactions; amending s. 212.08, F.S.;  
providing a tax exemption for industrial  
machinery and equipment purchased for use in  
expanding certain printing or publishing  
facilities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (5) of section  
212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution,  
and storage tax; specified exemptions.--The sale at retail,  
the rental, the use, the consumption, the distribution, and  
the storage to be used or consumed in this state of the  
following are hereby specifically exempt from the tax imposed  
by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(b) Machinery and equipment used to increase  
productive output.--

1. Industrial machinery and equipment purchased for  
use in new businesses which manufacture, process, compound, or  
produce for sale, or for exclusive use in spaceport activities  
as defined in s. 212.02, items of tangible personal property  
at fixed locations are exempt from the tax imposed by this  
chapter upon an affirmative showing by the taxpayer to the  
satisfaction of the department that such items are used in a  
new business in this state. Such purchases must be made prior  
to the date the business first begins its productive

1 operations, and delivery of the purchased item must be made  
2 within 12 months of that date.

3       2.a. Industrial machinery and equipment purchased for  
4 use in expanding manufacturing facilities or plant units which  
5 manufacture, process, compound, or produce for sale, or for  
6 exclusive use in spaceport activities as defined in s. 212.02,  
7 items of tangible personal property at fixed locations in this  
8 state are exempt from any amount of tax imposed by this  
9 chapter in excess of \$50,000 per calendar year upon an  
10 affirmative showing by the taxpayer to the satisfaction of the  
11 department that such items are used to increase the productive  
12 output of such expanded business by not less than 10 percent.

13       b. Notwithstanding any other provision of this  
14 section, industrial machinery and equipment purchased for use  
15 in expanding printing or publishing manufacturing facilities  
16 or plant units that manufacture, process, compound, or produce  
17 for sale items of tangible personal property at fixed  
18 locations in this state are exempt from any amount of tax  
19 imposed by this chapter upon an affirmative showing by the  
20 taxpayer to the satisfaction of the department that such items  
21 are used to increase the productive output of such an expanded  
22 business by not less than 10 percent.

23       3.a. To receive an exemption provided by subparagraph  
24 1. or subparagraph 2., a qualifying business entity shall  
25 apply to the department for a temporary tax exemption permit.  
26 The application shall state that a new business exemption or  
27 expanded business exemption is being sought. Upon a tentative  
28 affirmative determination by the department pursuant to  
29 subparagraph 1. or subparagraph 2., the department shall issue  
30 such permit.

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1           b. The applicant shall be required to maintain all  
2 necessary books and records to support the exemption. Upon  
3 completion of purchases of qualified machinery and equipment  
4 pursuant to subparagraph 1. or subparagraph 2., the temporary  
5 tax permit shall be delivered to the department or returned to  
6 the department by certified or registered mail.

7           c. If, in a subsequent audit conducted by the  
8 department, it is determined that the machinery and equipment  
9 purchased as exempt under subparagraph 1. or subparagraph 2.  
10 did not meet the criteria mandated by this paragraph or if  
11 commencement of production did not occur, the amount of taxes  
12 exempted at the time of purchase shall immediately be due and  
13 payable to the department by the business entity, together  
14 with the appropriate interest and penalty, computed from the  
15 date of purchase, in the manner prescribed by this chapter.

16           d. In the event a qualifying business entity fails to  
17 apply for a temporary exemption permit or if the tentative  
18 determination by the department required to obtain a temporary  
19 exemption permit is negative, a qualifying business entity  
20 shall receive the exemption provided in subparagraph 1. or  
21 subparagraph 2. through a refund of previously paid taxes. No  
22 refund may be made for such taxes unless the criteria mandated  
23 by subparagraph 1. or subparagraph 2. have been met and  
24 commencement of production has occurred.

25           4. The department shall promulgate rules governing  
26 applications for, issuance of, and the form of temporary tax  
27 exemption permits; provisions for recapture of taxes; and the  
28 manner and form of refund applications and may establish  
29 guidelines as to the requisites for an affirmative showing of  
30 increased productive output, commencement of production, and  
31 qualification for exemption.

1           5. The exemptions provided in subparagraphs 1. and 2.  
2 do not apply to machinery or equipment purchased or used by  
3 electric utility companies, communications companies,  
4 phosphate or other solid minerals severance, mining, or  
5 processing operations, oil or gas exploration or production  
6 operations, publishing firms that do not export at least 50  
7 percent of their finished product out of the state, any firm  
8 subject to regulation by the Division of Hotels and  
9 Restaurants of the Department of Business and Professional  
10 Regulation, or any firm which does not manufacture, process,  
11 compound, or produce for sale, or for exclusive use in  
12 spaceport activities as defined in s. 212.02, items of  
13 tangible personal property.

14           6. For the purposes of the exemptions provided in  
15 subparagraphs 1. and 2., these terms have the following  
16 meanings:

17           a. "Industrial machinery and equipment" means "section  
18 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
19 Internal Revenue Code, provided "industrial machinery and  
20 equipment" shall be construed by regulations adopted by the  
21 Department of Revenue to mean tangible property used as an  
22 integral part of the manufacturing, processing, compounding,  
23 or producing for sale, or for exclusive use in spaceport  
24 activities as defined in s. 212.02, of items of tangible  
25 personal property. Such term includes parts and accessories  
26 only to the extent that the exemption thereof is consistent  
27 with the provisions of this paragraph.

28           b. "Productive output" means the number of units  
29 actually produced by a single plant or operation in a single  
30 continuous 12-month period, irrespective of sales. Increases  
31 in productive output shall be measured by the output for 12

1 continuous months immediately following the completion of  
2 installation of such machinery or equipment over the output  
3 for the 12 continuous months immediately preceding such  
4 installation. However, if a different 12-month continuous  
5 period of time would more accurately reflect the increase in  
6 productive output of machinery and equipment purchased to  
7 facilitate an expansion, the increase in productive output may  
8 be measured during that 12-month continuous period of time if  
9 such time period is mutually agreed upon by the Department of  
10 Revenue and the expanding business prior to the commencement  
11 of production; provided, however, in no case may such time  
12 period begin later than 2 years following the completion of  
13 installation of the new machinery and equipment. The units  
14 used to measure productive output shall be physically  
15 comparable between the two periods, irrespective of sales.

16 7. Notwithstanding any other provision in this  
17 paragraph to the contrary, in order to receive the exemption  
18 provided in this paragraph a taxpayer must register with the  
19 WAGES Program Business Registry established by the local WAGES  
20 coalition for the area in which the taxpayer is located. Such  
21 registration establishes a commitment on the part of the  
22 taxpayer to hire WAGES program participants to the maximum  
23 extent possible consistent with the nature of their business.

24 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Provides an exemption from the tax on sales, use, and other transactions for industrial machinery and equipment purchased for use in expanding certain printing or publishing facilities.