

By Senator Kirkpatrick

5-1561-99

1 A bill to be entitled
2 An act relating to economic development;
3 expressing legislative intent to foster the
4 development of the health technology industry;
5 amending s. 212.08, F.S.; providing a sales tax
6 exemption on purchases of certain machinery and
7 equipment used in health technology production
8 and research and development; amending s.
9 499.015, F.S.; exempting certain medical device
10 manufacturers from specified registration and
11 fee provisions of the Florida Drug and Cosmetic
12 Act; requiring documentation to support such
13 exemption from the act; amending s. 499.041,
14 F.S.; eliminating devices from the category of
15 registered products triggering payment of an
16 annual product registration fee; requiring the
17 State University System and the University of
18 Miami to report to the Legislature on
19 evaluation of certain business incubator,
20 clinical trial, intellectual property, and
21 technology transfer activities; requiring
22 consultation with specified entities as part of
23 such evaluation; requiring the State Board of
24 Community Colleges to report to the Legislature
25 on the development of curriculum to support the
26 workforce needs of the health technology
27 industry; requiring Enterprise Florida, Inc.,
28 to convene a task force to study the impact of
29 securities transactions laws on the ability of
30 the health technology industry to raise
31 capital; requiring a report to the Legislature

1 on recommendations for revising such laws;
2 providing an effective date.

3
4 WHEREAS, Enterprise Florida, Inc., has a sector
5 strategy devoted to Florida's health technology industry, and

6 WHEREAS, the health technology industry represents a
7 valued and growing sector of Florida's economy, and

8 WHEREAS, the health technology industry employs more
9 than 250,000 Floridians at a high average wage and is a
10 significant contributor to state and local tax revenue, and

11 WHEREAS, the health technology industry is dominated by
12 small employers and entrepreneurs that look to the state, its
13 communities, economic development organizations, community
14 colleges, and universities to provide an environment that will
15 nurture its development, and

16 WHEREAS, the health technology industry improves the
17 quality of life for all Floridians, and

18 WHEREAS, the Florida Legislature recognizes the
19 importance of this industry to our state, NOW, THEREFORE,

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. It is the intent of the Legislature to
24 encourage and facilitate the location and expansion of the
25 state's health technology industry. This industry sector
26 creates high-wage, value-added jobs that strengthen and
27 diversify the state's economy.

28 Section 2. Paragraph (j) of subsection (5) of section
29 212.08, Florida Statutes, 1998 Supplement, is amended to read:

30 212.08 Sales, rental, use, consumption, distribution,
31 and storage tax; specified exemptions.--The sale at retail,

1 the rental, the use, the consumption, the distribution, and
2 the storage to be used or consumed in this state of the
3 following are hereby specifically exempt from the tax imposed
4 by this chapter.

5 (5) EXEMPTIONS; ACCOUNT OF USE.--

6 (j) Machinery and equipment used in health technology
7 and silicon technology production and research and
8 development.--

9 1. Industrial machinery and equipment purchased for
10 use in health technology facilities or silicon technology
11 facilities certified under subparagraph 5. to manufacture,
12 process, compound, or produce health technology products or
13 silicon technology products for sale or for use by these
14 facilities are exempt from the tax imposed by this chapter.

15 2. Machinery and equipment are exempt from the tax
16 imposed by this chapter if purchased for use predominately in
17 research and development or manufacturing in a health
18 technology facility, or if purchased for use predominately in
19 silicon wafer research and development activities in a silicon
20 technology research and development facility certified under
21 subparagraph 5.

22 3. In addition to meeting the criteria mandated by
23 subparagraph 1. or subparagraph 2., a business must be
24 certified by the Office of Tourism, Trade, and Economic
25 Development as authorized in this paragraph in order to
26 qualify for exemption under this paragraph.

27 4. For items purchased tax exempt pursuant to this
28 paragraph, possession of a written certification from the
29 purchaser, certifying the purchaser's entitlement to exemption
30 pursuant to this paragraph, relieves the seller of the
31 responsibility of collecting the tax on the sale of such

1 items, and the department shall look solely to the purchaser
2 for recovery of tax if it determines that the purchaser was
3 not entitled to the exemption.

4 5.a. To be eligible to receive the exemption provided
5 by subparagraph 1. or subparagraph 2., a qualifying business
6 entity shall apply to Enterprise Florida, Inc. The application
7 shall be developed by the Office of Tourism, Trade, and
8 Economic Development in consultation with Enterprise Florida,
9 Inc.

10 b. Enterprise Florida, Inc., shall review each
11 submitted application and information and determine whether or
12 not the application is complete within 5 working days. Once an
13 application is complete, Enterprise Florida, Inc., shall,
14 within 10 working days, evaluate the application and recommend
15 approval or disapproval of the application to the Office of
16 Tourism, Trade, and Economic Development.

17 c. Upon receipt of the application and recommendation
18 from Enterprise Florida, Inc., the Office of Tourism, Trade,
19 and Economic Development shall certify within 5 working days
20 those applicants who are found to meet the requirements of
21 this section and notify the applicant, Enterprise Florida,
22 Inc., and the department of the certification. If the Office
23 of Tourism, Trade, and Economic Development finds that the
24 applicant does not meet the requirements of this section, it
25 shall notify the applicant and Enterprise Florida, Inc.,
26 within 10 working days that the application for certification
27 has been denied and the reasons for denial. The Office of
28 Tourism, Trade, and Economic Development has final approval
29 authority for certification under this section.

30 6.a. A business certified to receive this exemption
31 may apply once each year for the exemption.

1 b. The first claim submitted by a business may include
2 all eligible expenditures made after the date the business was
3 certified.

4 c. To apply for the annual exemption, the business
5 shall submit a claim to the Office of Tourism, Trade, and
6 Economic Development, which claim indicates and documents the
7 sales and use taxes otherwise payable on eligible machinery
8 and equipment. The claim must also indicate, for program
9 evaluation purposes only, the average number of full-time
10 equivalent employees at the facility over the preceding
11 calendar year, the average wage and benefits paid to those
12 employees over the preceding calendar year, and the total
13 investment made in real and tangible personal property over
14 the preceding calendar year or, for the first claim submitted,
15 since the date of certification. The department shall assist
16 the Office of Tourism, Trade, and Economic Development in
17 evaluating and verifying information provided in the
18 application for exemption.

19 d. The Office of Tourism, Trade, and Economic
20 Development may use the information reported on the claims for
21 evaluation purposes only and shall prepare an annual report on
22 the exemption program and its cost and impact. The annual
23 report for the preceding fiscal year shall be submitted to the
24 Governor, the President of the Senate, and the Speaker of the
25 House of Representatives by September 30 of each fiscal year.
26 This report may be submitted in conjunction with the annual
27 report required in s. 288.095(3)(c).

28 7. A business certified to receive this exemption may
29 elect to designate one or more state universities or community
30 colleges as recipients of up to 100 percent of the amount of
31 the exemption for which they may qualify. To receive these

1 funds, the institution must agree to match the funds so earned
2 with equivalent cash, programs, services, or other in-kind
3 support on a one-to-one basis in the pursuit of research and
4 development projects as requested by the certified business.
5 The rights to any patents, royalties, or real or intellectual
6 property must be vested in the business unless otherwise
7 agreed to by the business and the university or community
8 college.

9 8. As used in this paragraph, the term:

10 a. "Predominately" means at least 50 percent of the
11 time in qualifying research and development.

12 b. "Research and development" means basic and applied
13 research in the science or engineering, as well as the design,
14 development, and testing of prototypes or processes of new or
15 improved products. Research and development does not include
16 market research, routine consumer product testing, sales
17 research, research in the social sciences or psychology,
18 nontechnological activities, or technical services.

19 c. "Silicon technology products" means raw silicon
20 wafers that are transformed into semiconductor memory or logic
21 wafers, including wafers containing mixed memory and logic
22 circuits; related assembly and test operations; active-matrix
23 flat panel displays; semiconductor chips; and related silicon
24 technology products as determined by the Office of Tourism,
25 Trade, and Economic Development.

26 d. "Health technology products" means drugs; surgical,
27 medical, and dental instruments and supplies; ophthalmic
28 goods; laboratory apparatus; laboratory analytical
29 instruments; optical instruments and lenses; and related
30 health technology products as determined by the Office of
31 Tourism, Trade, and Economic Development.

1 Section 3. Subsection (8) is added to section 499.015,
2 Florida Statutes, 1998 Supplement, to read:

3 499.015 Registration of drugs, devices, and cosmetics;
4 issuance of certificates of free sale.--

5 (8) Notwithstanding any other requirement of ss.
6 499.001-499.081, medical device manufacturers whose devices
7 are approved by, registered, and listed with the U.S. Food and
8 Drug Administration are exempt from the provisions of ss.
9 499.015 and 499.041(6). However, the device manufacturer must
10 submit evidence of such registration, listing, and approval at
11 the time it submits its application for a permit to do
12 business in the state, as required in s. 499.013(2)(d).
13 Evidence of U.S. Food and Drug Administration approval and
14 registration includes:

15 (a) A copy of the premarket notification letter (510K)
16 for Class II devices;

17 (b) A U.S. Food and Drug Administration premarket
18 approval number for Class III devices;

19 (c) A U.S. Food and Drug Administration registration
20 number for subcontract medical device manufacturers who
21 manufacture components of devices for manufacturers; or

22 (d) A U.S. Food and Drug Administration registration
23 number for medical device manufacturers whose devices are
24 exempt from premarket approval.

25 Section 4. Subsection (6) of section 499.041, Florida
26 Statutes, is amended to read:

27 499.041 Schedule of fees for drug, device, and
28 cosmetic applications and permits, investigational drug
29 applications, product registrations, and free-sale
30 certificates; trust fund.--

31

1 (6) A person that is required to register drugs~~7~~
2 ~~devices~~, or cosmetic products under s. 499.015 shall pay an
3 annual product registration fee of not less than \$5 or more
4 than \$15 for each separate and distinct product in package
5 form. The registration fee is in addition to the fee charged
6 for a free-sale certificate. However, a person that is
7 required to register devices under s. 499.015 is not exempt
8 from paying the free-sale certificate fee.

9 Section 5. The State University System and the
10 University of Miami shall evaluate the feasibility of
11 establishing additional health technology business incubators
12 similar to the University of Florida's Sid Martin
13 Biotechnology Institute at appropriate state universities or
14 the University of Miami and shall evaluate the enhancement and
15 expansion of current facilities to support health technology
16 companies. The State University System and the University of
17 Miami shall evaluate establishing cooperative clinical trial
18 programs in conjunction with their medical schools. The State
19 University System shall also evaluate and recommend ways to
20 support, improve, encourage, and facilitate the creation of
21 and the collaboration with Florida-based businesses in
22 licensing State University System intellectual property and
23 the collaboration of State University System employees with
24 Florida businesses in research and technology transfer
25 efforts. The State University System and the University of
26 Miami shall consult with the Health Technology Advisory
27 Council of Enterprise Florida and Bio+Florida as part of these
28 evaluations and recommendations. The State University System
29 and the University of Miami shall report recommendations to
30 the Governor, the President of the Senate, and the Speaker of
31 the House of Representatives by December 1, 1999.

