

STORAGE NAME: h0397s1.ft

DATE: April 15, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: CS/HB 397

RELATING TO: Sales Tax Exemption/Machinery Repair

SPONSOR(S): Committee on Business Development & International Trade and Representative Feeney

COMPANION BILL(S): SB 992(S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 7 NAYS 0
 - (2) FINANCE AND TAXATION
 - (3) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides an exemption from the sales, use and storage tax imposed by s. 212.08, Florida Statutes, for labor charges for the repair of, and parts and materials used in the repair of and incorporated into, industrial machinery and equipment which is used for the manufacturing, processing, compounding, or production of items of tangible personal property at a fixed location in Florida.

The exemption applies only to certain industry codes as classified under the Standard Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President. Additionally, the exemption would be phased-in at the rate of 25 percent per year beginning with July 1, 1999.

Finally, this bill expands the current sales tax exemption on charges for electricity or steam used to operate machinery at fixed locations in Florida and for specified purposes, to include SIC Industry Group Number 212, the cigar industry.

The estimated fiscal impact upon General Revenue is (\$2.9) million for FY 99-2000 and (\$6.8) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.3) million for FY 1999-2000 and (\$0.6) for FY2000-2001. The total estimated fiscal impact for this bill is (\$3.2) million for FY 1999-2000 and (\$7.4) million for FY 2000-2001.

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II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, Florida Statutes, provides for the tax on sales, use and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under chapter 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a six percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in this state.

Section 212.02, F.S., provides definitions for the implementation of this chapter and paragraph (16) of this section states that "sales price" includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Section 212.02(19), F.S., defines "tangible personal property" as personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses. Section 212.08, F.S., provides for exemptions from the sales and use tax imposed by this chapter.

Certain industries are classified under the Standard Industrial Classification (SIC) Manual, 1987, published by the Office of Management and Budget, Executive Office of the President. The following are the SIC codes and their industry description affected by this bill: 10 - Metal Mining; 12 - Coal Mining; 13 - Oil and Gas Extraction; 14 - Nonmetallic Materials, except fuels; 20 - Food and kindred products; 22 - Textile Mill Products; 23 - Apparel and other Textile Products; 24 - Lumber and Wood Products; 25 - Furniture and Fixtures; 26 - Paper and Allied Products; 27 - Printing and Publishing; 28 - Chemicals and Allied Products; 29 - Petroleum and Coal Products; 30 - Rubber and Misc. Plastics Products; 31 - Leather and Leather Products; 32 - Stone, Clay and Glass Products; 33 - Primary Metal Products; 34 - Fabricated Metal Products; 36 - Electronic and Other Electric Equipment; 37 - Transportation Equipment; 38 - Instruments and Related Products; 39 - Miscellaneous Manufacturing Industries; and 212 - Cigars.

Section 212.08(7)(ii), F.S., provides a sales tax exemption on charges for electrical or steam energy used to operate machinery and equipment at a fixed location in Florida when such machinery is used to manufacture, process, compound, produce, or prepare for shipment, items of tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or control equipment used in such operations. To qualify for the exemption, at least 75 percent of the electricity or steam used at the location must be used to operate qualifying machinery or equipment. If less than 75 percent but more than 50 percent of the electricity is used to operate qualifying machinery or equipment, then it is presumed that 50 percent of the charges for electricity is for nonexempt purposes. The exemption began in 1996 at a rate of 20 percent and increases 20 percent each year until reaching 100 percent on July 1, 2000. The exemption applies to SIC Major Group Numbers 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39.

B. EFFECT OF PROPOSED CHANGES:

Industries in the following SIC Major Groups would not be subject to the tax on sales, use, and other transactions imposed by Chapter 212, Florida Statutes, for labor charges for the repair of, and parts and materials used in the repair of and incorporated into, industrial machinery and equipment which is used for the manufacture, processing, compounding, or production of items of tangible personal property at a fixed location within this state: 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, and Industry Group Number 212.

The tax exemption provided herein would be effective beginning July 1, 1999 at a rate of 25 percent of such charges for repair parts and labor, and would increase at a rate of 25 percent per year until reaching 100 percent beginning July 1, 2002.

Additionally, this bill extends the current sales tax exemption on charges for electricity or steam used to operate machinery at fixed locations, and for specified purposes, to SIC Industry Group Number 212, the cigar industry.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill does not address rulemaking.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes.

- d. Does the bill reduce total fees, both rates and revenues?

The revenue estimating conference has not yet addressed this bill.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212.08, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Machinery and Equipment

General Revenue

Trust Fund

Local Government

FY 1999-00

(\$2.9M)

(*)

(\$0.3M)

FY 2000-01

(\$6.8M)

(*)

(\$0.6M)

Electricity - Cigar Industry

General Revenue

Trust Fund

Local Government

FY 1999-00

(*)

(*)

(*)

FY 2000-01

(*)

(*)

(*)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See III.A.2.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Certain manufacturing businesses in Florida will have overall lower operating costs due to the creation of a sales tax exemption for repair costs on machinery and equipment.

3. Effects on Competition, Private Enterprise and Employment Markets:

Lower operating costs should allow Florida's manufacturing businesses to be more competitive with other markets.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

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V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 10, 1999, the Committee on Business Development and International Trade adopted an amendment to HB 397 and subsequently passed the bill as a committee substitute. The amendment adopted expanded the sales tax exemption on charges for electricity or steam used to operate machinery and equipment at a fixed location in Florida and for specified purposes, to include SIC Industry Group Number 212.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

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