

By Representatives Fuller, Wallace, Bense, Edwards and  
Stansel

1                                   A bill to be entitled  
2           An act relating to tax on sales, use, and other  
3           transactions; amending s. 212.08, F.S.;  
4           revising the time period during which  
5           industrial machinery and equipment must be  
6           purchased and delivered to qualify for the  
7           exemption for use in a new business; removing a  
8           restriction on application of the exemption for  
9           industrial machinery and equipment used in an  
10          expanding business; providing an exemption for  
11          industrial machinery and equipment purchased  
12          for use in manufacturing tangible personal  
13          property for sale which is not qualified for  
14          the exemption for new or expanding businesses;  
15          providing a schedule for implementing said  
16          exemption; providing for application of  
17          exceptions, special provisions for phosphate  
18          and solid mineral severance or processing,  
19          definitions, and a WAGES program registration  
20          requirement, to said exemption; providing an  
21          exemption for machinery, materials, equipment,  
22          and tangible personal property purchased for  
23          use in research and development; providing a  
24          schedule for implementing said exemption;  
25          providing definitions; providing for  
26          application of the exemption for repair and  
27          labor charges for industrial machinery and  
28          equipment to machinery and equipment used to  
29          prepare tangible personal property for  
30          shipment; amending s. 212.0805, F.S., relating  
31          to conditions for qualification of machinery

1 and equipment used in phosphate and solid  
2 mineral severance or processing for the  
3 exemption for new or expanding businesses, to  
4 conform; providing an effective date.

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

7  
8 Section 1. Paragraph (b) of subsection (5) of section  
9 212.08, Florida Statutes, is amended, paragraph (n) is added  
10 to said subsection, and paragraph (eee) of subsection (7) of  
11 said section is amended, to read:

12 212.08 Sales, rental, use, consumption, distribution,  
13 and storage tax; specified exemptions.--The sale at retail,  
14 the rental, the use, the consumption, the distribution, and  
15 the storage to be used or consumed in this state of the  
16 following are hereby specifically exempt from the tax imposed  
17 by this chapter.

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

19 (b) Machinery and equipment used in manufacturing or  
20 spaceport activities ~~to increase productive output~~.--

21 1. Industrial machinery and equipment purchased for  
22 exclusive use by a new business in spaceport activities as  
23 defined by s. 212.02 or for use in new businesses which  
24 manufacture, process, compound, or produce for sale items of  
25 tangible personal property at fixed locations are exempt from  
26 the tax imposed by this chapter upon an affirmative showing by  
27 the taxpayer to the satisfaction of the department that such  
28 items are used in a new business in this state. The purchase  
29 and delivery of the qualifying machinery and equipment must be  
30 executed within the period beginning 4 years prior to the date  
31 the business begins its productive operations and ending 4

1 ~~years after that date. Such purchases must be made prior to~~  
2 ~~the date the business first begins its productive operations,~~  
3 ~~and delivery of the purchased item must be made within 12~~  
4 ~~months of that date.~~

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

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

27           3. Industrial machinery and equipment purchased for  
28 use in manufacturing facilities or plant units which  
29 manufacture, process, compound, or produce for sale items of  
30 tangible personal property at fixed locations in this state  
31 and which is not exempt under subparagraph 1. or subparagraph

1 2. shall be exempt from the tax imposed by this chapter as  
2 provided in this subparagraph. This exemption shall be applied  
3 as follows:

4 a. Beginning July 1, 2000, 15 percent of such  
5 purchases shall be exempt.

6 b. Beginning July 1, 2001, 30 percent of such  
7 purchases shall be exempt.

8 c. Beginning July 1, 2002, 50 percent of such  
9 purchases shall be exempt.

10 d. Beginning July 1, 2003, 70 percent of such  
11 purchases shall be exempt.

12 e. Beginning July 1, 2004, 90 percent of such  
13 purchases shall be exempt.

14 f. Beginning July 1, 2005, 100 percent of such  
15 purchases shall be exempt.

16 4.3-a. To receive an exemption provided by  
17 subparagraph 1. or subparagraph 2., a qualifying business  
18 entity shall apply to the department for a temporary tax  
19 exemption permit. The application shall state that a new  
20 business exemption or expanded business exemption is being  
21 sought. Upon a tentative affirmative determination by the  
22 department pursuant to subparagraph 1. or subparagraph 2., the  
23 department shall issue such permit.

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

30 c. If, in a subsequent audit conducted by the  
31 department, it is determined that the machinery and equipment

1 purchased as exempt under subparagraph 1. or subparagraph 2.  
2 did not meet the criteria mandated by this paragraph or if  
3 commencement of production did not occur, the amount of taxes  
4 exempted at the time of purchase shall immediately be due and  
5 payable to the department by the business entity, together  
6 with the appropriate interest and penalty, computed from the  
7 date of purchase, in the manner prescribed by this chapter.

8         d. In the event a qualifying business entity fails to  
9 apply for a temporary exemption permit or if the tentative  
10 determination by the department required to obtain a temporary  
11 exemption permit is negative, a qualifying business entity  
12 shall receive the exemption provided in subparagraph 1. or  
13 subparagraph 2. through a refund of previously paid taxes. No  
14 refund may be made for such taxes unless the criteria mandated  
15 by subparagraph 1. or subparagraph 2. have been met and  
16 commencement of production has occurred.

17         ~~5.4.~~ The department shall promulgate rules governing  
18 applications for, issuance of, and the form of temporary tax  
19 exemption permits; provisions for recapture of taxes; and the  
20 manner and form of refund applications and may establish  
21 guidelines as to the requisites for an affirmative showing of  
22 increased productive output, commencement of production, and  
23 qualification for exemption.

24         ~~6.5.~~ The exemptions provided in subparagraphs 1., and  
25 2., and 3. do not apply to machinery or equipment purchased or  
26 used by electric utility companies, communications companies,  
27 oil or gas exploration or production operations, publishing  
28 firms that do not export at least 50 percent of their finished  
29 product out of the state, any firm subject to regulation by  
30 the Division of Hotels and Restaurants of the Department of  
31 Business and Professional Regulation, or any firm which does

1 not manufacture, process, compound, or produce for sale items  
2 of tangible personal property or which does not use such  
3 machinery and equipment in spaceport activities as required by  
4 this paragraph. The exemptions provided in subparagraphs 1.,  
5 ~~and 2.~~, and 3. shall apply to machinery and equipment  
6 purchased for use in phosphate or other solid minerals  
7 severance, mining, or processing operations only by way of a  
8 prospective credit against taxes due under chapter 211 for  
9 taxes paid under this chapter on such machinery and equipment.

10 ~~7.6.~~ For the purposes of the exemptions provided in  
11 subparagraphs 1., ~~and 2.~~, and 3., these terms have the  
12 following meanings:

13 a. "Industrial machinery and equipment" means "section  
14 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
15 Internal Revenue Code, provided "industrial machinery and  
16 equipment" shall be construed by regulations adopted by the  
17 Department of Revenue to mean tangible property used as an  
18 integral part of spaceport activities or of the manufacturing,  
19 processing, compounding, or producing for sale of items of  
20 tangible personal property. Such term includes parts and  
21 accessories only to the extent that the exemption thereof is  
22 consistent with the provisions of this paragraph.

23 b. "Productive output" means the number of units  
24 actually produced by a single plant or operation in a single  
25 continuous 12-month period, irrespective of sales. Increases  
26 in productive output shall be measured by the output for 12  
27 continuous months immediately following the completion of  
28 installation of such machinery or equipment over the output  
29 for the 12 continuous months immediately preceding such  
30 installation. However, if a different 12-month continuous  
31 period of time would more accurately reflect the increase in

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

11 ~~8.7.~~ Notwithstanding any other provision in this  
12 paragraph to the contrary, in order to receive the exemption  
13 provided in this paragraph a taxpayer must register with the  
14 WAGES Program Business Registry established by the local WAGES  
15 coalition for the area in which the taxpayer is located. Such  
16 registration establishes a commitment on the part of the  
17 taxpayer to hire WAGES program participants to the maximum  
18 extent possible consistent with the nature of their business.

19 (n) Machinery, materials, equipment, and tangible  
20 personal property used in research and development.--

21 1. Machinery, materials, equipment, and all tangible  
22 personal property purchased for use predominantly in research  
23 or development activities are exempt from the tax imposed by  
24 this chapter. This exemption shall be applied as follows:

25 a. Beginning July 1, 2000, 15 percent of such  
26 purchases shall be exempt.

27 b. Beginning July 1, 2001, 30 percent of such  
28 purchases shall be exempt.

29 c. Beginning July 1, 2002, 50 percent of such  
30 purchases shall be exempt.

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1           d. Beginning July 1, 2003, 70 percent of such  
2 purchases shall be exempt.

3           e. Beginning July 1, 2004, 90 percent of such  
4 purchases shall be exempt.

5           f. Beginning July 1, 2005, 100 percent of such  
6 purchases shall be exempt.

7           2. As used in this paragraph:

8           a. "Predominantly" means that at least 50 percent of  
9 the time the machinery, materials, equipment, or tangible  
10 personal property is used in qualifying research and  
11 development activities.

12           b. "Research or development" means research which has  
13 one of the following as its ultimate goal:

14           (I) Basic research in a scientific field of endeavor.

15           (II) Advancing knowledge or technology in a scientific  
16 or technical field of endeavor.

17           (III) The development of a new product, whether or not  
18 the new product is offered for sale.

19           (IV) The improvement of an existing product, whether  
20 or not the improved product is offered for sale.

21           (V) The development of new uses of an existing  
22 product, whether or not a new use is offered as a rationale to  
23 purchase the product.

24           (VI) The design and development of prototypes, whether  
25 or not a resulting product is offered for sale.

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27 "Research or development" does not include ordinary testing or  
28 inspection of materials or products used for quality control,  
29 market research, efficiency surveys, consumer surveys,  
30 advertising and promotions, management studies, or research in  
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1 connection with literary, historical, social science,  
2 psychological, or other similar nontechnical activities.

3 (7) MISCELLANEOUS EXEMPTIONS.--

4 (eee) Certain repair and labor charges.--

5 1. Subject to the provisions of subparagraphs 2. and  
6 3., there is exempt from the tax imposed by this chapter all  
7 labor charges for the repair of, and parts and materials used  
8 in the repair of and incorporated into, industrial machinery  
9 and equipment which is used for the manufacture, processing,  
10 compounding, or production, or preparation for shipment of  
11 items of tangible personal property at a fixed location within  
12 this state.

13 2. This exemption applies only to industries  
14 classified under SIC Industry Major Group Numbers 10, 12, 13,  
15 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
16 36, 37, 38, and 39 and Industry Group Number 212. As used in  
17 this subparagraph, "SIC" means those classifications contained  
18 in the Standard Industrial Classification Manual, 1987, as  
19 published by the Office of Management and Budget, Executive  
20 Office of the President.

21 3. This exemption shall be applied as follows:

22 a. Beginning July 1, 1999, 25 percent of such charges  
23 for repair parts and labor shall be exempt.

24 b. Beginning July 1, 2000, 50 percent of such charges  
25 for repair parts and labor shall be exempt.

26 c. Beginning July 1, 2001, 75 percent of such charges  
27 for repair parts and labor shall be exempt.

28 d. Beginning July 1, 2002, 100 percent of such charges  
29 for repair parts and labor shall be exempt.

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1 Exemptions provided to any entity by this subsection shall not  
2 inure to any transaction otherwise taxable under this chapter  
3 when payment is made by a representative or employee of such  
4 entity by any means, including, but not limited to, cash,  
5 check, or credit card even when that representative or  
6 employee is subsequently reimbursed by such entity.

7 Section 2. Subsections (1) and (2) of section  
8 212.0805, Florida Statutes, are amended to read:

9 212.0805 Qualification for exemption and credit  
10 provided in s. 212.08(5)(b)1., 2., and 6.5.--

11 (1) In order to qualify for the exemption and credit  
12 provided in s. 212.08(5)(b)2. and 6.5., for machinery and  
13 equipment purchased for use in phosphate or other solid  
14 minerals severance, mining, or processing operations, an  
15 expanding business must demonstrate the following:

16 (a) For a business that has 2,500 or fewer Florida  
17 employees, the creation of new Florida jobs in an amount equal  
18 to at least 5 percent of its Florida employees; or

19 (b) For a business that has more than 2,500 Florida  
20 employees, the creation of new Florida jobs in an amount equal  
21 to at least 3 percent of its Florida employees.

22 (2) In order to qualify for the exemption and credit  
23 provided in s. 212.08(5)(b)1. and 6.5., for machinery and  
24 equipment purchased for use in phosphate or other solid  
25 minerals severance, mining, or processing operations, a new  
26 business must demonstrate the creation of at least 100 new  
27 Florida jobs.

28 Section 3. This act shall take effect July 1, 2000.  
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HOUSE SUMMARY

Revises the sales tax exemption for industrial machinery and equipment purchased for use in manufacturing or spaceport activities in new or expanding businesses. Revises the time period during which such machinery and equipment must be purchased with respect to the exemption for new businesses. Removes a provision that specifies that the exemption for expanding businesses applies only to taxes in excess of \$50,000. Provides an exemption for machinery and equipment purchased for use in manufacturing that is not eligible for the exemption for new or expanding businesses, phased in over a 5-year period.

Provides a sales tax exemption for machinery, equipment, materials, and tangible personal property purchased for use predominantly in research and development, phased in over a 5-year period.

Extends the application of the sales tax exemption for materials and labor used in the repair of industrial machinery and equipment, to include machinery and equipment used in the preparation of items for shipping.