

By Senator King

8-1072A-00

See HB

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