

By Senator Sullivan

22-375C-00

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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 an exemption for machinery and  
equipment for use in defense and space  
technology research and development and  
production; providing definitions; providing an  
effective date.

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

Section 1. Paragraph (j) 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.--

(j) Machinery and equipment used in silicon, defense,  
or space technology production and research and development.--

1. Industrial machinery and equipment used ~~purchased~~  
~~for use~~ in silicon, defense, or space technology facilities  
certified under subparagraph 5. to manufacture, process,  
compound, or produce silicon technology products, defense  
technology products, or space technology products for sale or  
for use by these facilities are exempt from the tax imposed by  
this chapter.

2. Machinery and equipment are exempt from the tax  
imposed by this chapter if used ~~purchased for use~~

1 predominately in silicon wafer, defense, or space research and  
2 development activities in a silicon, defense, or space  
3 technology research and development facility certified under  
4 subparagraph 5.

5           3. In addition to meeting the criteria mandated by  
6 subparagraph 1. or subparagraph 2., a business must be  
7 certified by the Office of Tourism, Trade, and Economic  
8 Development as authorized in this paragraph in order to  
9 qualify for exemption under this paragraph.

10           4. For items purchased tax exempt pursuant to this  
11 paragraph, possession of a written certification from the  
12 purchaser, certifying the purchaser's entitlement to exemption  
13 pursuant to this paragraph, relieves the seller of the  
14 responsibility of collecting the tax on the sale of such  
15 items, and the department shall look solely to the purchaser  
16 for recovery of tax if it determines that the purchaser was  
17 not entitled to the exemption.

18           5.a. To be eligible to receive the exemption provided  
19 by subparagraph 1. or subparagraph 2., a qualifying business  
20 entity shall apply to Enterprise Florida, Inc. The application  
21 shall be developed by the Office of Tourism, Trade, and  
22 Economic Development in consultation with Enterprise Florida,  
23 Inc.

24           b. Enterprise Florida, Inc., shall review each  
25 submitted application and information and determine whether or  
26 not the application is complete within 5 working days. Once an  
27 application is complete, Enterprise Florida, Inc., shall,  
28 within 10 working days, evaluate the application and recommend  
29 approval or disapproval of the application to the Office of  
30 Tourism, Trade, and Economic Development.

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1           c. Upon receipt of the application and recommendation  
2 from Enterprise Florida, Inc., the Office of Tourism, Trade,  
3 and Economic Development shall certify within 5 working days  
4 those applicants who are found to meet the requirements of  
5 this section and notify the applicant, Enterprise Florida,  
6 Inc., and the department of the certification. If the Office  
7 of Tourism, Trade, and Economic Development finds that the  
8 applicant does not meet the requirements of this section, it  
9 shall notify the applicant and Enterprise Florida, Inc.,  
10 within 10 working days that the application for certification  
11 has been denied and the reasons for denial. The Office of  
12 Tourism, Trade, and Economic Development has final approval  
13 authority for certification under this section.

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

16           b. The first claim submitted by a business may include  
17 all eligible expenditures made after the date the business was  
18 certified.

19           c. To apply for the annual exemption, the business  
20 shall submit a claim to the Office of Tourism, Trade, and  
21 Economic Development, which claim indicates and documents the  
22 sales and use taxes otherwise payable on eligible machinery  
23 and equipment. The claim must also indicate, for program  
24 evaluation purposes only, the average number of full-time  
25 equivalent employees at the facility over the preceding  
26 calendar year, the average wage and benefits paid to those  
27 employees over the preceding calendar year, and the total  
28 investment made in real and tangible personal property over  
29 the preceding calendar year or, for the first claim submitted,  
30 since the date of certification. The department shall assist  
31 the Office of Tourism, Trade, and Economic Development in

1 evaluating and verifying information provided in the  
2 application for exemption.

3           d. The Office of Tourism, Trade, and Economic  
4 Development may use the information reported on the claims for  
5 evaluation purposes only and shall prepare an annual report on  
6 the exemption program and its cost and impact. The annual  
7 report for the preceding fiscal year shall be submitted to the  
8 Governor, the President of the Senate, and the Speaker of the  
9 House of Representatives by September 30 of each fiscal year.  
10 This report may be submitted in conjunction with the annual  
11 report required in s. 288.095(3)(c).

12           7. A business certified to receive this exemption may  
13 elect to designate one or more state universities or community  
14 colleges as recipients of up to 100 percent of the amount of  
15 the exemption for which they may qualify. To receive these  
16 funds, the institution must agree to match the funds so earned  
17 with equivalent cash, programs, services, or other in-kind  
18 support on a one-to-one basis in the pursuit of research and  
19 development projects as requested by the certified business.  
20 The rights to any patents, royalties, or real or intellectual  
21 property must be vested in the business unless otherwise  
22 agreed to by the business and the university or community  
23 college.

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

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

27           b. "Research and development" means basic and applied  
28 research in the science or engineering, as well as the design,  
29 development, and testing of prototypes or processes of new or  
30 improved products. Research and development does not include  
31 market research, routine consumer product testing, sales

1 research, research in the social sciences or psychology,  
2 nontechnological activities, or technical services.

3 c. "Silicon technology products" means raw silicon  
4 wafers that are transformed into semiconductor memory or logic  
5 wafers, including wafers containing mixed memory and logic  
6 circuits; related assembly and test operations; active-matrix  
7 flat panel displays; semiconductor chips; and related silicon  
8 technology products as determined by the Office of Tourism,  
9 Trade, and Economic Development.

10 d. "Defense technology products" means products that  
11 have a military application, including, but not limited to,  
12 weapons, weapons systems, guidance systems, surveillance  
13 systems, communications or information systems, munitions,  
14 aircraft, vessels, or boats, or components thereof, which are  
15 intended for military use and manufactured in performance of a  
16 contract with the United States Department of Defense or the  
17 military branch of a recognized foreign government or a  
18 subcontract thereunder which relates to matters of national  
19 defense.

20 e. "Space technology products" means products that  
21 have a space application, including, but not limited to,  
22 space-launch vehicles, missiles, satellites or research  
23 payloads, avionics, and associated control systems and  
24 processing systems. The term does not include products  
25 produced for general commercial purposes or other uses that  
26 may have only an incidental use in space applications.

27 f. As used in subparagraphs 1. and 2., the terms  
28 "machinery and equipment" and "industrial machinery and  
29 equipment" include, but are not limited to, machine tools,  
30 testing equipment, test beds, computers, and software, whether  
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1 purchased or self-fabricated, and, if self-fabricated, include  
2 materials and labor for design, fabrication, and assembly.

3 Section 2. This act shall take effect January 1, 2001.

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6 SENATE SUMMARY

7 Provides an exemption from the tax on sales, use, and  
8 other transactions for machinery and equipment for use in  
9 defense and space technology research and development and  
10 production. Provides definitions.

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