

By Senator Sebesta

20-1078-00

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 providing that machinery and equipment used by
5 an expanding facility engaged in spaceport
6 activities or by certain expanding
7 manufacturing facilities are totally exempt
8 from said tax in any year in which the tax
9 liability thereon exceeds \$25,000; providing an
10 effective date.

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

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14 Section 1. Paragraph (b) of subsection (5) of section
15 212.08, Florida Statutes, is amended to read:

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

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

23 (b) Machinery and equipment used to increase
24 productive output.--

25 1. Industrial machinery and equipment purchased for
26 exclusive use by a new business in spaceport activities as
27 defined by s. 212.02 or for use in new businesses which
28 manufacture, process, compound, or produce for sale items of
29 tangible personal property at fixed locations are exempt from
30 the tax imposed by this chapter upon an affirmative showing by
31 the taxpayer to the satisfaction of the department that such

1 items are used in a new business in this state. Such purchases
2 must be made prior to the date the business first begins its
3 productive operations, and delivery of the purchased item must
4 be made within 12 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 any excess of \$50,000 per calendar year in which the
13 taxpayer is liable for more than \$25,000 in tax imposed by
14 this chapter on such machinery and equipment, upon an
15 affirmative showing by the taxpayer to the satisfaction of the
16 department that such items are used to increase the productive
17 output of such expanded facility or business by not less than
18 10 percent, subject to the provisions of sub-subparagraph 3.e.

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

29 3.a. To receive an exemption provided by subparagraph
30 1. or subparagraph 2., a qualifying business entity shall
31 apply to the department for a temporary tax exemption permit.

1 The application shall state that a new business exemption or
2 expanded business exemption is being sought. Upon a tentative
3 affirmative determination by the department pursuant to
4 subparagraph 1. or subparagraph 2., the department shall issue
5 such permit.

6 b. The applicant shall be required to maintain all
7 necessary books and records to support the exemption. Upon
8 completion of purchases of qualified machinery and equipment
9 pursuant to subparagraph 1. or subparagraph 2., the temporary
10 tax permit shall be delivered to the department or returned to
11 the department by certified or registered mail.

12 c. If, in a subsequent audit conducted by the
13 department, it is determined that the machinery and equipment
14 purchased as exempt under subparagraph 1. or subparagraph 2.
15 did not meet the criteria mandated by this paragraph or if
16 commencement of production did not occur, the amount of taxes
17 exempted at the time of purchase shall immediately be due and
18 payable to the department by the business entity, together
19 with the appropriate interest and penalty, computed from the
20 date of purchase, in the manner prescribed by this chapter.

21 d. In the event a qualifying business entity fails to
22 apply for a temporary exemption permit or if the tentative
23 determination by the department required to obtain a temporary
24 exemption permit is negative, a qualifying business entity
25 shall receive the exemption provided in subparagraph 1. or
26 subparagraph 2. through a refund of previously paid taxes. No
27 refund may be made for such taxes unless the criteria mandated
28 by subparagraph 1. or subparagraph 2. have been met and
29 commencement of production has occurred.

30 e. Once a qualifying business entity has paid \$25,000
31 in taxes in a calendar year as specified in sub-subparagraph

1 2.a. and has met all other requirements of this paragraph, and
2 commencement of production has occurred, the business entity
3 is eligible for the total exemption provided by that
4 sub-subparagraph for that calendar year through a refund of
5 previously paid taxes.

6 4. The department shall promulgate rules governing
7 applications for, issuance of, and the form of temporary tax
8 exemption permits; provisions for recapture of taxes; and the
9 manner and form of refund applications and may establish
10 guidelines as to the requisites for an affirmative showing of
11 increased productive output, commencement of production, and
12 qualification for exemption.

13 5. The exemptions provided in subparagraphs 1. and 2.
14 do not apply to machinery or equipment purchased or used by
15 electric utility companies, communications companies, oil or
16 gas exploration or production operations, publishing firms
17 that do not export at least 50 percent of their finished
18 product out of the state, any firm subject to regulation by
19 the Division of Hotels and Restaurants of the Department of
20 Business and Professional Regulation, or any firm which does
21 not manufacture, process, compound, or produce for sale items
22 of tangible personal property or which does not use such
23 machinery and equipment in spaceport activities as required by
24 this paragraph. The exemptions provided in subparagraphs 1.
25 and 2. shall apply to machinery and equipment purchased for
26 use in phosphate or other solid minerals severance, mining, or
27 processing operations only by way of a prospective credit
28 against taxes due under chapter 211 for taxes paid under this
29 chapter on such machinery and equipment.

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1 6. For the purposes of the exemptions provided in
2 subparagraphs 1. and 2., these terms have the following
3 meanings:

4 a. "Industrial machinery and equipment" means "section
5 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
6 Internal Revenue Code, provided "industrial machinery and
7 equipment" shall be construed by regulations adopted by the
8 Department of Revenue to mean tangible property used as an
9 integral part of spaceport activities or of the manufacturing,
10 processing, compounding, or producing for sale of items of
11 tangible personal property. Such term includes parts and
12 accessories only to the extent that the exemption thereof is
13 consistent with the provisions of this paragraph.

14 b. "Productive output" means the number of units
15 actually produced by a single plant or operation in a single
16 continuous 12-month period, irrespective of sales. Increases
17 in productive output shall be measured by the output for 12
18 continuous months immediately following the completion of
19 installation of such machinery or equipment over the output
20 for the 12 continuous months immediately preceding such
21 installation. However, if a different 12-month continuous
22 period of time would more accurately reflect the increase in
23 productive output of machinery and equipment purchased to
24 facilitate an expansion, the increase in productive output may
25 be measured during that 12-month continuous period of time if
26 such time period is mutually agreed upon by the Department of
27 Revenue and the expanding business prior to the commencement
28 of production; provided, however, in no case may such time
29 period begin later than 2 years following the completion of
30 installation of the new machinery and equipment. The units

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1 used to measure productive output shall be physically
2 comparable between the two periods, irrespective of sales.

3 7. Notwithstanding any other provision in this
4 paragraph to the contrary, in order to receive the exemption
5 provided in this paragraph a taxpayer must register with the
6 WAGES Program Business Registry established by the local WAGES
7 coalition for the area in which the taxpayer is located. Such
8 registration establishes a commitment on the part of the
9 taxpayer to hire WAGES program participants to the maximum
10 extent possible consistent with the nature of their business.

11 Section 2. This act shall take effect July 1, 2000.

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LEGISLATIVE SUMMARY

Provides that machinery and equipment used by an expanding facility engaged in spaceport activities or by certain expanding manufacturing facilities are totally exempt from sales tax in any year in which the tax liability thereon exceeds \$25,000. Present law exempts such machinery and equipment from taxes in excess of \$50,000 per year.