

By Representative Fasano

1                                   A bill to be entitled  
 2           An act relating to tax on sales, use, and other  
 3           transactions; amending s. 212.051, F.S.;  
 4           including specialty chemicals and  
 5           bioaugmentation products within the exemption  
 6           for equipment and machinery used for pollution  
 7           control in connection with the manufacture of  
 8           items of tangible personal property for sale;  
 9           amending s. 212.08, F.S.; providing that  
 10          machinery and equipment used by an expanding  
 11          facility engaged in spaceport activities or by  
 12          certain expanding manufacturing facilities are  
 13          totally exempt from said tax in any year in  
 14          which the tax liability thereon exceeds  
 15          \$25,000; providing an effective date.

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

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 19           Section 1. Subsection (1) of section 212.051, Florida  
 20 Statutes, is amended to read:

21           212.051 Equipment, ~~or~~ machinery, and other materials  
 22 for pollution control; not subject to sales or use tax.--

23           (1) Notwithstanding any provision to the contrary,  
 24 sales, use, or privilege taxes shall not be collected with  
 25 respect to any facility, device, fixture, equipment, ~~or~~  
 26 machinery, specialty chemical, or bioaugmentation product used  
 27 primarily for the control or abatement of pollution or  
 28 contaminants in manufacturing, processing, compounding, or  
 29 producing for sale items of tangible personal property at a  
 30 fixed location, or any structure, machinery, or equipment  
 31 installed in the reconstruction or replacement of such

1 facility, device, fixture, equipment, or machinery. To  
2 qualify, such facility, device, fixture, equipment, ~~or~~  
3 structure, specialty chemical, or bioaugmentation product must  
4 be used, installed, or constructed to meet a law implemented  
5 by, or a condition of a permit issued by, the Department of  
6 Environmental Protection; however, such exemption shall not be  
7 allowed unless the purchaser signs a certificate stating that  
8 the facility, device, fixture, equipment, ~~or~~ structure,  
9 specialty chemical, or bioaugmentation product to be exempted  
10 is required to meet such law or condition.

11 Section 2. Paragraph (b) of subsection (5) of section  
12 212.08, Florida Statutes, is amended to read:

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

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

20 (b) Machinery and equipment used to increase  
21 productive output.--

22 1. Industrial machinery and equipment purchased for  
23 exclusive use by a new business in spaceport activities as  
24 defined by s. 212.02 or for use in new businesses which  
25 manufacture, process, compound, or produce for sale items of  
26 tangible personal property at fixed locations are exempt from  
27 the tax imposed by this chapter upon an affirmative showing by  
28 the taxpayer to the satisfaction of the department that such  
29 items are used in a new business in this state. Such purchases  
30 must be made prior to the date the business first begins its  
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1 productive operations, and delivery of the purchased item must  
2 be made within 12 months of that date.

3           2.a. Industrial machinery and equipment purchased for  
4 exclusive use by an expanding facility which is engaged in  
5 spaceport activities as defined by s. 212.02 or for use in  
6 expanding manufacturing facilities or plant units which  
7 manufacture, process, compound, or produce for sale items of  
8 tangible personal property at fixed locations in this state  
9 are exempt from the any amount of tax imposed by this chapter  
10 in any excess of \$50,000 per calendar year in which the  
11 taxpayer is liable for more than \$25,000 in tax imposed by  
12 this chapter on such machinery and equipment, upon an  
13 affirmative showing by the taxpayer to the satisfaction of the  
14 department that such items are used to increase the productive  
15 output of such expanded facility or business by not less than  
16 10 percent, subject to the provisions of sub-subparagraph 3.e.

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.a. To receive an exemption provided by subparagraph  
28 1. or subparagraph 2., a qualifying business entity shall  
29 apply to the department for a temporary tax exemption permit.  
30 The application shall state that a new business exemption or  
31 expanded business exemption is being sought. Upon a tentative

1 affirmative determination by the department pursuant to  
2 subparagraph 1. or subparagraph 2., the department shall issue  
3 such permit.

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

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

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

28         e. Once a qualifying business entity has paid \$25,000  
29 in taxes in a calendar year as specified in sub-subparagraph  
30 2.a. and has met all other requirements of this paragraph, and  
31 commencement of production has occurred, the business entity

1 is eligible for the total exemption provided by that  
2 sub-subparagraph for that calendar year through a refund of  
3 previously paid taxes.

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

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

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

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1           a. "Industrial machinery and equipment" means "section  
2 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
3 Internal Revenue Code, provided "industrial machinery and  
4 equipment" shall be construed by regulations adopted by the  
5 Department of Revenue to mean tangible property used as an  
6 integral part of spaceport activities or of the manufacturing,  
7 processing, compounding, or producing for sale of items of  
8 tangible personal property. Such term includes parts and  
9 accessories only to the extent that the exemption thereof is  
10 consistent with the provisions of this paragraph.

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

30           7. Notwithstanding any other provision in this  
31 paragraph to the contrary, in order to receive the exemption

1 provided in this paragraph a taxpayer must register with the  
2 WAGES Program Business Registry established by the local WAGES  
3 coalition for the area in which the taxpayer is located. Such  
4 registration establishes a commitment on the part of the  
5 taxpayer to hire WAGES program participants to the maximum  
6 extent possible consistent with the nature of their business.

7 Section 3. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

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12 Includes specialty chemicals and bioaugmentation products  
13 within the sales tax exemption for equipment and  
14 machinery used for pollution control in connection with  
the manufacture of items of tangible personal property  
for sale.

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16 Provides that machinery and equipment used by an  
17 expanding facility engaged in spaceport activities or by  
18 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.

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