

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Wallace offered the following:

**Amendment (with title amendment)**

On page 1, line 31,

insert:

Section 1. Paragraph (b) 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.--

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

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which manufacture, process, compound, or produce for sale items of

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1 tangible personal property at fixed locations are exempt from  
2 the tax imposed by this chapter upon an affirmative showing by  
3 the taxpayer to the satisfaction of the department that such  
4 items are used in a new business in this state. Such purchases  
5 must be made prior to the date the business first begins its  
6 productive operations, and delivery of the purchased item must  
7 be made within 12 months of that date.

8           2.a. Industrial machinery and equipment purchased for  
9 exclusive use by an expanding facility which is engaged in  
10 spaceport activities as defined by s. 212.02 or for use in  
11 expanding manufacturing facilities or plant units which  
12 manufacture, process, compound, or produce for sale items of  
13 tangible personal property at fixed locations in this state  
14 are exempt from any amount of tax imposed by this chapter in  
15 excess of ~~\$40,000~~ ~~\$50,000~~ per calendar year upon an  
16 affirmative showing by the taxpayer to the satisfaction of the  
17 department that such items are used to increase the productive  
18 output of such expanded facility or business by not less than  
19 10 percent.

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

30           3.a. To receive an exemption provided by subparagraph  
31 1. or subparagraph 2., a qualifying business entity shall

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

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

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

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

31         4. The department shall promulgate rules governing

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1 applications for, issuance of, and the form of temporary tax  
2 exemption permits; provisions for recapture of taxes; and the  
3 manner and form of refund applications and may establish  
4 guidelines as to the requisites for an affirmative showing of  
5 increased productive output, commencement of production, and  
6 qualification for exemption.

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

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

27           a. "Industrial machinery and equipment" means "section  
28 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
29 Internal Revenue Code, provided "industrial machinery and  
30 equipment" shall be construed by regulations adopted by the  
31 Department of Revenue to mean tangible property used as an

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1 integral part of spaceport activities or of the manufacturing,  
 2 processing, compounding, or producing for sale of items of  
 3 tangible personal property. Such term includes parts and  
 4 accessories only to the extent that the exemption thereof is  
 5 consistent with the provisions of this paragraph.

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

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27 ===== T I T L E   A M E N D M E N T =====

28 And the title is amended as follows:

29           On page 1, line 2, after the semicolon,

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31 insert:

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amending s. 212.08, F.S.; reducing the maximum  
amount of the tax which is imposed upon  
industrial machinery and equipment;