

hbd-38

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Representative(s) Wallace offered the following:

Amendment (with title amendment)

On page 1, between lines 25 and 26 of the bill

insert:

Section 2. 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

hbd-38

Bill No. HB 1961

Amendment No. ____ (for drafter's use only)

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 a ~~an expanding~~ facility that ~~which~~ is engaged
10 in 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 the ~~any amount of~~ tax imposed by this chapter
15 in 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.b.2-, a qualifying business entity shall

hbd-38

Amendment No. ____ (for drafter's use only)

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.b.2-, the department shall
6 issue 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.b.2-, the
11 temporary tax permit shall be delivered to the department or
12 returned to 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.b.
16 2- 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.b.2- through a refund of previously paid
28 taxes. No refund may be made for such taxes unless the
29 criteria mandated by subparagraph 1. or subparagraph 2.b.2-
30 have been met and commencement of production has occurred.

31 4. The department shall promulgate rules governing

hbd-38

Bill No. HB 1961

Amendment No. ____ (for drafter's use only)

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

hbd-38

Bill No. HB 1961

Amendment No. ____ (for drafter's use only)

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.

25
 26
 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 9, after the semicolon

30
 31 insert:

hbd-38

Amendment No. ____ (for drafter's use only)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

amending s. 212.08, F.S.; revising the exemption for industrial machinery and equipment; broadening the application of the exemption; reducing the maximum amount of the tax which is imposed on such machinery and equipment;