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1 A bill to be entitled
 2 An act relating to the sales tax exemption for machinery
 3 and equipment used to increase productive output; amending
 4 s. 212.08, F.S.; deleting a limitation on an exemption
 5 from the sales tax for such machinery and equipment each
 6 year; providing an effective date.

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

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 10 Section 1. Paragraph (b) of subsection (5) of section
 11 212.08, Florida Statutes, is amended to read:

12 212.08 Sales, rental, use, consumption, distribution, and
 13 storage tax; specified exemptions.--The sale at retail, the
 14 rental, the use, the consumption, the distribution, and the
 15 storage to be used or consumed in this state of the following
 16 are hereby specifically exempt from the tax imposed by this
 17 chapter.

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

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

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

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30 productive operations, and delivery of the purchased item must
 31 be made within 12 months of that date.

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

43 b. Notwithstanding any other provision of this section,
 44 industrial machinery and equipment purchased for use in
 45 expanding printing manufacturing facilities or plant units that
 46 manufacture, process, compound, or produce for sale items of
 47 tangible personal property at fixed locations in this state are
 48 exempt from any amount of tax imposed by this chapter upon an
 49 affirmative showing by the taxpayer to the satisfaction of the
 50 department that such items are used to increase the productive
 51 output of such an expanded business by not less than 10 percent.

52 3.a. To receive an exemption provided by subparagraph 1.
 53 or subparagraph 2., a qualifying business entity shall apply to
 54 the department for a temporary tax exemption permit. The
 55 application shall state that a new business exemption or
 56 expanded business exemption is being sought. Upon a tentative
 57 affirmative determination by the department pursuant to

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58 subparagraph 1. or subparagraph 2., the department shall issue
59 such permit.

60 b. The applicant shall be required to maintain all
61 necessary books and records to support the exemption. Upon
62 completion of purchases of qualified machinery and equipment
63 pursuant to subparagraph 1. or subparagraph 2., the temporary
64 tax permit shall be delivered to the department or returned to
65 the department by certified or registered mail.

66 c. If, in a subsequent audit conducted by the department,
67 it is determined that the machinery and equipment purchased as
68 exempt under subparagraph 1. or subparagraph 2. did not meet the
69 criteria mandated by this paragraph or if commencement of
70 production did not occur, the amount of taxes exempted at the
71 time of purchase shall immediately be due and payable to the
72 department by the business entity, together with the appropriate
73 interest and penalty, computed from the date of purchase, in the
74 manner prescribed by this chapter.

75 d. In the event a qualifying business entity fails to
76 apply for a temporary exemption permit or if the tentative
77 determination by the department required to obtain a temporary
78 exemption permit is negative, a qualifying business entity shall
79 receive the exemption provided in subparagraph 1. or
80 subparagraph 2. through a refund of previously paid taxes. No
81 refund may be made for such taxes unless the criteria mandated
82 by subparagraph 1. or subparagraph 2. have been met and
83 commencement of production has occurred.

84 4. The department shall adopt rules governing applications
85 for, issuance of, and the form of temporary tax exemption
86 permits; provisions for recapture of taxes; and the manner and

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87 form of refund applications and may establish guidelines as to
88 the requisites for an affirmative showing of increased
89 productive output, commencement of production, and qualification
90 for exemption.

91 5. The exemptions provided in subparagraphs 1. and 2. do
92 not apply to machinery or equipment purchased or used by
93 electric utility companies, communications companies, oil or gas
94 exploration or production operations, publishing firms that do
95 not export at least 50 percent of their finished product out of
96 the state, any firm subject to regulation by the Division of
97 Hotels and Restaurants of the Department of Business and
98 Professional Regulation, or any firm which does not manufacture,
99 process, compound, or produce for sale items of tangible
100 personal property or which does not use such machinery and
101 equipment in spaceport activities as required by this paragraph.
102 The exemptions provided in subparagraphs 1. and 2. shall apply
103 to machinery and equipment purchased for use in phosphate or
104 other solid minerals severance, mining, or processing operations
105 only by way of a prospective credit against taxes due under
106 chapter 211 for taxes paid under this chapter on such machinery
107 and equipment.

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

111 a. "Industrial machinery and equipment" means tangible
112 personal property or other property that has a depreciable life
113 of 3 years or more and that is used as an integral part in the
114 manufacturing, processing, compounding, or production of
115 tangible personal property for sale or is exclusively used in

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116 spaceport activities. A building and its structural components
117 are not industrial machinery and equipment unless the building
118 or structural component is so closely related to the industrial
119 machinery and equipment that it houses or supports that the
120 building or structural component can be expected to be replaced
121 when the machinery and equipment are replaced. Heating and air-
122 conditioning systems are not industrial machinery and equipment
123 unless the sole justification for their installation is to meet
124 the requirements of the production process, even though the
125 system may provide incidental comfort to employees or serve, to
126 an insubstantial degree, nonproduction activities. The term
127 includes parts and accessories only to the extent that the
128 exemption thereof is consistent with the provisions of this
129 paragraph.

130 b. "Productive output" means the number of units actually
131 produced by a single plant or operation in a single continuous
132 12-month period, irrespective of sales. Increases in productive
133 output shall be measured by the output for 12 continuous months
134 immediately following the completion of installation of such
135 machinery or equipment over the output for the 12 continuous
136 months immediately preceding such installation. However, if a
137 different 12-month continuous period of time would more
138 accurately reflect the increase in productive output of
139 machinery and equipment purchased to facilitate an expansion,
140 the increase in productive output may be measured during that
141 12-month continuous period of time if such time period is
142 mutually agreed upon by the Department of Revenue and the
143 expanding business prior to the commencement of production;
144 provided, however, in no case may such time period begin later

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145 | than 2 years following the completion of installation of the new
146 | machinery and equipment. The units used to measure productive
147 | output shall be physically comparable between the two periods,
148 | irrespective of sales.

149 | Section 2. This act shall take effect July 1, 2004.