

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: SB 2312

SPONSOR: Senator Smith and others

SUBJECT: Sales Tax - Machinery and Equipment

DATE: March 23, 2005

REVISED: 03/29/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	Fav/1 amendment
2.	<u> </u>	<u> </u>	<u>GE</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>WM</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill provides a full, rather than partial, sales tax exemption for industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility.

This bill also broadens an existing sales tax exemption for machinery and equipment purchased by an expanding business pursuant to federal procurement regulation.

The bill also broadens an existing sales tax exemption for machinery and equipment purchased for use by new or expanding solid minerals, mining, or processing operations.

This bill substantially amends section 212.08 of the Florida Statutes and repeals section 212.0805 of the Florida Statutes.

II. Present Situation:

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances.

Industrial machinery and equipment purchased for exclusive use by a *new* business in spaceport activities or for use in a *new* business that manufactures, processes, compounds, or produces for sale, items of tangible property at a fixed location are exempt from the tax imposed by ch. 212, F.S.¹ To avail itself of the exemption, a business must demonstrate to the Department of Revenue that the machinery and equipment are used in this state. Additionally, a new business must purchase the machinery or equipment before the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

A similar, but partial, sales tax exemption is provided for industrial machinery and equipment used exclusively by an *expanding* facility that is engaged in spaceport activities or used in an *expanding* manufacturing facility that manufactures, processes, compounds, or produces for sale, items of tangible personal property at a fixed location in this state. In these cases, however, the exemption applies to tax amounts in excess of \$50,000 per calendar year on machinery and equipment purchases. Also, industrial machinery and equipment purchased by an expanding business pursuant to federal procurement regulations is exempt from sales tax in excess of \$100,000 per calendar year.² For the exemption to apply to these expanding businesses, the businesses must demonstrate that the machinery and equipment are used to increase productive output by at least 10 percent.³

Machinery and equipment purchased by for use in phosphate or other solid minerals severance, mining, or processing operations are entitled to the new or expanded business exemptions only by way of a credit against phosphate taxes paid.⁴ In addition, in order to qualify for the exemption, a new mining business must create at least 100 new jobs in Florida; and expanding mining business with less than 2,500 jobs must increase the number of Florida jobs by at least 5 percent; and an expanding mining business with more than 2,500 jobs must increase the number of Florida jobs by at least 3 percent.⁵

When the industrial machinery and equipment are purchased for use in an expanding printing manufacturing facility, the \$50,000 threshold does not apply, and the taxpayer does not have to pay any sales tax amounts related to the purchases.⁶

To receive these exemptions, qualifying businesses must apply to the Department of Revenue for temporary tax exemption permits. A business must maintain all books and records to support the exemption. The department, upon an audit which determines that the business does not meet the criteria for the exemption, shall immediately collect from the business the amount of taxes exempted plus interest and any penalty.⁷

¹ Section 212.08(5)(b)1., F.S. The term “spaceport activities” refers to activities directed or sponsored by the Florida Space Authority on spaceport territory through its power and duties under the Florida Space Authority Act (s. 212.02(22), F.S.).

² Section 212.08(5)(d), F.S.

³ Section 212.08(5)(b)2.a., F.S.

⁴ Section 212.08(5)(b)5., F.S.

⁵ Section 212.0805, F.S.

⁶ Section 212.08(5)(b)2.b., F.S.

⁷ Section 212.08(5)(b)3.a.-c., F.S.

The term “industrial machinery and equipment” refers to “tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities.”⁸

III. Effect of Proposed Changes:

Section 1 amends s.212.08, F.S., to revise the existing sales and use tax exemption for industrial machinery and equipment purchased for exclusive use in an expanding facility that is engaged in spaceport activities or for use in an expanding manufacturing facility, by removing a limitation in the current law that the exemption applies solely to tax amounts above \$50,000 per calendar year. The bill also removes the \$100,000 threshold applicable to purchases of machinery and equipment pursuant to federal procurement regulations. The bill retains the requirement that the taxpayer demonstrate that the machinery and equipment will be used to increase productive output by at least 10 percent at the facility.

By eliminating the \$50,000 threshold on the spaceport and the general manufacturing exemption, the bill has the effect of making a separately stated and specific exemption for printing manufacturing facilities redundant, as these printing facilities would now be captured within the general manufacturing exemption. Therefore, the bill deletes from current law the separately stated and specific exemption for printing manufacturing facilities codified in s. 212.08(5)(b)2.b., F.S.

Section 2 repeals s. 212.0805, F.S., effectively removing the requirement that businesses involved in mining operations can only take the exemption as a credit against phosphate taxes due and repeals the requirement for job creation applicable to mining operations.

Section 3 provides an effective date of July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the legislature by 2/3 vote of the membership, the legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

By expanding the sales tax exemption for machinery and equipment, the bill reduces the municipalities' and counties' sales tax base, thereby reducing their revenue-raising authority. The fiscal impact of the bill on counties and municipalities is an estimated \$4.7 million in FY 2005 - 2006. (See Tax/Fee Issues) Therefore, the measure will require a two-thirds vote of the membership of each house of the Legislature.

⁸ Section 212.08(5)(b)6.a., F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference adopted estimates for this bill on February 4, 2005. They estimate that as a result of this sales tax exemption, the state will lose \$29.6 million dollars per fiscal year.

Fiscal Impact
(millions of dollars)

	Cash 2005-2006	Recurring
State	(22.30)	(24.40)
Local	(4.70)	(5.20)
Total Impact	(27.00)	(29.60)

B. Private Sector Impact:

Businesses engaged in certain activities that purchase industrial machinery and equipment will not be subject to sales tax on purchases of such equipment.

C. Government Sector Impact:

The Department of Revenue reports that they anticipate a substantial increase in administrative costs relating to the increased number of applications for sales tax exemptions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 684324 by Commerce and Consumer Services:

This amendment requires that the sales tax exemption provided in the bill is subject to a review by the Legislature by July 1, 2015. The amendment also requires the Office of Program Policy and Government Accountability (OPPAGA) and Enterprise Florida, Inc. (EFI), to evaluate the impact of the exemption to on the promotion of research and development activities, and submit reports to the Governor and Legislature that provide recommendations as to whether or not the exemption should be reenacted.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
