

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; deleting an exemption for such machinery and
 7 equipment used to expand certain printing manufacturing
 8 facilities or plant units; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (b) of subsection (5) of section
 13 212.08, Florida Statutes, is amended to read:

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

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

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

23 1. Industrial machinery and equipment purchased for
 24 exclusive use by a new business in spaceport activities as
 25 defined by s. 212.02 or for use in new businesses which
 26 manufacture, process, compound, or produce for sale items of
 27 tangible personal property at fixed locations are exempt from
 28 the tax imposed by this chapter upon an affirmative showing by

29 the taxpayer to the satisfaction of the department that such
30 items are used in a new business in this state. Such purchases
31 must be made prior to the date the business first begins its
32 productive operations, and delivery of the purchased item must
33 be made within 12 months of that date.

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

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

54 3.a. To receive an exemption provided by subparagraph 1.
55 or subparagraph 2., a qualifying business entity shall apply to
56 the department for a temporary tax exemption permit. The

57 application shall state that a new business exemption or
58 expanded business exemption is being sought. Upon a tentative
59 affirmative determination by the department pursuant to
60 subparagraph 1. or subparagraph 2., the department shall issue
61 such permit.

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

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

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

84 by subparagraph 1. or subparagraph 2. have been met and
85 commencement of production has occurred.

86 4. The department shall adopt rules governing applications
87 for, issuance of, and the form of temporary tax exemption
88 permits; provisions for recapture of taxes; and the manner and
89 form of refund applications and may establish guidelines as to
90 the requisites for an affirmative showing of increased
91 productive output, commencement of production, and qualification
92 for exemption.

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

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

113 a. "Industrial machinery and equipment" means tangible
114 personal property or other property that has a depreciable life
115 of 3 years or more and that is used as an integral part in the
116 manufacturing, processing, compounding, or production of
117 tangible personal property for sale or is exclusively used in
118 spaceport activities. A building and its structural components
119 are not industrial machinery and equipment unless the building
120 or structural component is so closely related to the industrial
121 machinery and equipment that it houses or supports that the
122 building or structural component can be expected to be replaced
123 when the machinery and equipment are replaced. Heating and air-
124 conditioning systems are not industrial machinery and equipment
125 unless the sole justification for their installation is to meet
126 the requirements of the production process, even though the
127 system may provide incidental comfort to employees or serve, to
128 an insubstantial degree, nonproduction activities. The term
129 includes parts and accessories only to the extent that the
130 exemption thereof is consistent with the provisions of this
131 paragraph.

132 b. "Productive output" means the number of units actually
133 produced by a single plant or operation in a single continuous
134 12-month period, irrespective of sales. Increases in productive
135 output shall be measured by the output for 12 continuous months
136 immediately following the completion of installation of such
137 machinery or equipment over the output for the 12 continuous

HB 0027

2005

138 months immediately preceding such installation. However, if a
139 different 12-month continuous period of time would more
140 accurately reflect the increase in productive output of
141 machinery and equipment purchased to facilitate an expansion,
142 the increase in productive output may be measured during that
143 12-month continuous period of time if such time period is
144 mutually agreed upon by the Department of Revenue and the
145 expanding business prior to the commencement of production;
146 provided, however, in no case may such time period begin later
147 than 2 years following the completion of installation of the new
148 machinery and equipment. The units used to measure productive
149 output shall be physically comparable between the two periods,
150 irrespective of sales.

151 Section 2. This act shall take effect July 1, 2005.