



1           Section 1. This act may be cited as the "Florida  
2 Manufacturing Global Competitiveness Act."

3           Section 2. Legislative findings and purpose.--The  
4 Legislature finds that a competitive manufacturing business  
5 climate is important given that the manufacturing sector  
6 contributes significantly to the economy of this state,  
7 helping it to weather natural and manmade disasters; that the  
8 development of free-trade agreements with the Americas will  
9 allow the state to be the gateway to increased international  
10 trade that will expand the opportunities for manufacturing  
11 exports, add thousands of well-paying jobs in the state, and  
12 secure Florida's place in emerging markets in the world  
13 marketplace; and that with the potential for increasing  
14 exports, an investment in manufacturing today will mean  
15 significant long-term positive revenue streams for the state  
16 tomorrow.

17           Section 3. Paragraphs (b) and (d) of subsection (5) of  
18 section 212.08, Florida Statutes, are amended to read:

19           212.08 Sales, rental, use, consumption, distribution,  
20 and storage tax; specified exemptions.--The sale at retail,  
21 the rental, the use, the consumption, the distribution, and  
22 the storage to be used or consumed in this state of the  
23 following are hereby specifically exempt from the tax imposed  
24 by this chapter.

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

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

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

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 \$50,000 per calendar year~~ upon an affirmative  
16 | showing by the taxpayer to the satisfaction of the department  
17 | that such items are used to increase the productive output of  
18 | such expanded facility or business by not less than 10  
19 | 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

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.

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

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

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

28           a. "Industrial machinery and equipment" means tangible  
29 personal property or other property that has a depreciable  
30 life of 3 years or more and that is used as an integral part  
31 in the manufacturing, processing, compounding, or production

1 of tangible personal property for sale or is exclusively used  
2 in spaceport activities. A building and its structural  
3 components are not industrial machinery and equipment unless  
4 the building or structural component is so closely related to  
5 the industrial machinery and equipment that it houses or  
6 supports that the building or structural component can be  
7 expected to be replaced when the machinery and equipment are  
8 replaced. Heating and air-conditioning systems are not  
9 industrial machinery and equipment unless the sole  
10 justification for their installation is to meet the  
11 requirements of the production process, even though the system  
12 may provide incidental comfort to employees or serve, to an  
13 insubstantial degree, nonproduction activities. The term  
14 includes parts and accessories only to the extent that the  
15 exemption thereof is consistent with the provisions of this  
16 paragraph.

17       b. "Productive output" means the number of units  
18 actually produced by a single plant or operation in a single  
19 continuous 12-month period, irrespective of sales. Increases  
20 in productive output shall be measured by the output for 12  
21 continuous months immediately following the completion of  
22 installation of such machinery or equipment over the output  
23 for the 12 continuous months immediately preceding such  
24 installation. However, if a different 12-month continuous  
25 period of time would more accurately reflect the increase in  
26 productive output of machinery and equipment purchased to  
27 facilitate an expansion, the increase in productive output may  
28 be measured during that 12-month continuous period of time if  
29 such time period is mutually agreed upon by the Department of  
30 Revenue and the expanding business prior to the commencement  
31 of production; provided, however, in no case may such time

1 | period begin later than 2 years following the completion of  
2 | installation of the new machinery and equipment. The units  
3 | used to measure productive output shall be physically  
4 | comparable between the two periods, irrespective of sales.

5 |         (d) Machinery and equipment used under federal  
6 | procurement contract.--

7 |         1. Industrial machinery and equipment purchased by an  
8 | expanding business that ~~which~~ manufactures tangible personal  
9 | property pursuant to federal procurement regulations at fixed  
10 | locations in this state are ~~partially~~ exempt from the tax  
11 | imposed in this chapter ~~on that portion of the tax which is in~~  
12 | ~~excess of \$100,000 per calendar year~~ upon an affirmative  
13 | showing by the taxpayer to the satisfaction of the department  
14 | that such items are used to increase the implicit productive  
15 | output of the expanded business by not less than 10 percent.  
16 | The percentage of increase is measured as deflated implicit  
17 | productive output for the calendar year during which the  
18 | installation of the machinery or equipment is completed or  
19 | during which commencement of production utilizing such items  
20 | is begun divided by the implicit productive output for the  
21 | preceding calendar year. In no case may the commencement of  
22 | production begin later than 2 years following completion of  
23 | installation of the machinery or equipment.

24 |         2. The amount of the exemption allowed shall equal the  
25 | taxes otherwise imposed by this chapter ~~in excess of \$100,000~~  
26 | ~~per calendar year~~ on qualifying industrial machinery or  
27 | equipment reduced by the percentage of gross receipts from  
28 | cost-reimbursement type contracts attributable to the plant or  
29 | operation to total gross receipts so attributable, accrued for  
30 | the year of completion or commencement.

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1           3. The exemption provided by this paragraph shall  
2 inure to the taxpayer only through refund of previously paid  
3 taxes. Such refund shall be made within 30 days after ~~of~~  
4 formal approval by the department of the taxpayer's  
5 application, which application may be made on an annual basis  
6 following installation of the machinery or equipment.

7           4. For the purposes of this paragraph, the term:

8           a. "Cost-reimbursement type contracts" has the same  
9 meaning as in 32 C.F.R. s. 3-405.

10           b. "Deflated implicit productive output" means the  
11 product of implicit productive output times the quotient of  
12 the national defense implicit price deflator for the preceding  
13 calendar year divided by the deflator for the year of  
14 completion or commencement.

15           c. "Eligible costs" means the total direct and  
16 indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203,  
17 excluding general and administrative costs, selling expenses,  
18 and profit, defined by the uniform cost-accounting standards  
19 adopted by the Cost-Accounting Standards Board created  
20 pursuant to 50 U.S.C. s. 2168.

21           d. "Implicit productive output" means the annual  
22 eligible costs attributable to all contracts or subcontracts  
23 subject to federal procurement regulations of the single plant  
24 or operation at which the machinery or equipment is used.

25           e. "Industrial machinery and equipment" means tangible  
26 personal property or other property that has a depreciable  
27 life of 3 years or more, that qualifies as an eligible cost  
28 under federal procurement regulations, and that is used as an  
29 integral part of the process of production of tangible  
30 personal property. A building and its structural components  
31 are not industrial machinery and equipment unless the building



1 or structural component is so closely related to the  
2 industrial machinery and equipment that it houses or supports  
3 that the building or structural component can be expected to  
4 be replaced when the machinery and equipment are replaced.  
5 Heating and air-conditioning systems are not industrial  
6 machinery and equipment unless the sole justification for  
7 their installation is to meet the requirements of the  
8 production process, even though the system may provide  
9 incidental comfort to employees or serve, to an insubstantial  
10 degree, nonproduction activities. The term includes parts and  
11 accessories only to the extent that the exemption of such  
12 parts and accessories is consistent with the provisions of  
13 this paragraph.

14 f. "National defense implicit price deflator" means  
15 the national defense implicit price deflator for the gross  
16 national product as determined by the Bureau of Economic  
17 Analysis of the United States Department of Commerce.

18 5. The exclusions provided in subparagraph (b)5. apply  
19 to this exemption. This exemption applies only to machinery  
20 or equipment purchased pursuant to production contracts with  
21 the United States Department of Defense and Armed Forces, the  
22 National Aeronautics and Space Administration, and other  
23 federal agencies for which the contracts are classified for  
24 national security reasons. In no event shall the provisions  
25 of this paragraph apply to any expanding business the increase  
26 in productive output of which could be measured under the  
27 provisions of sub-subparagraph (b)6.b. as physically  
28 comparable between the two periods.

29 Section 4. Section 212.0805, Florida Statutes, is  
30 repealed.

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1           Section 5. For the 2006-2007 fiscal year, the sum of  
2 \$210,000 is appropriated from the General Revenue Fund and  
3 four positions are authorized to the Department of Revenue for  
4 the purpose of implementing this act. Of the funds  
5 appropriated in this section, \$192,000 are recurring funds and  
6 \$18,000 are nonrecurring funds.

7           Section 6. This act shall take effect July 1, 2006.

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SENATE SUMMARY

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Provides legislative findings and purpose relating to the contribution of the manufacturing sector to the economy of this state and relating to free trade agreements with the Americas. Deletes a limitation on the annual amount of an exemption from the sales tax for certain machinery and equipment used to increase productive output. Deletes an exemption from the sales tax for machinery and equipment used to expand certain printing manufacturing facilities or plant units. Deletes a provision stating that the sales tax exemption for machinery and equipment purchased for use in phosphate or other solid mineral severance, mining, or processing operations may be taken only by way of a prospective credit against certain taxes. Deletes a limitation on the annual amount of a sales tax exemption for certain machinery and equipment purchased under a federal procurement contract. Repeals s. 212.0805, F.S., relating to qualifications for the exemption and credit for machinery and equipment purchased by an expanding business for use in phosphate or other solid minerals severance, mining, or processing operations. Provides an appropriation.

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