

By Senator Bean

4-01262-15

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1                   A bill to be entitled  
2       An act relating to the industrial machinery and  
3       equipment sales tax exemption; amending s. 212.08,  
4       F.S.; removing the scheduled repeal of the sales and  
5       use tax exemption for industrial machinery and  
6       equipment purchased by certain manufacturing  
7       businesses; providing an effective date.

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

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11       Section 1. Paragraph (kkk) of subsection (7) of section  
12       212.08, Florida Statutes, is amended to read:

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

19       (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
20       entity by this chapter do not inure to any transaction that is  
21       otherwise taxable under this chapter when payment is made by a  
22       representative or employee of the entity by any means,  
23       including, but not limited to, cash, check, or credit card, even  
24       when that representative or employee is subsequently reimbursed  
25       by the entity. In addition, exemptions provided to any entity by  
26       this subsection do not inure to any transaction that is  
27       otherwise taxable under this chapter unless the entity has  
28       obtained a sales tax exemption certificate from the department  
29       or the entity obtains or provides other documentation as

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30 required by the department. Eligible purchases or leases made  
31 with such a certificate must be in strict compliance with this  
32 subsection and departmental rules, and any person who makes an  
33 exempt purchase with a certificate that is not in strict  
34 compliance with this subsection and the rules is liable for and  
35 shall pay the tax. The department may adopt rules to administer  
36 this subsection.

37 (kkk) *Certain machinery and equipment.*—

38 1. Industrial machinery and equipment purchased by eligible  
39 manufacturing businesses which is used at a fixed location  
40 within this state, or a mixer drum affixed to a mixer truck  
41 which is used at any location within this state to mix, agitate,  
42 and transport freshly mixed concrete in a plastic state, for the  
43 manufacture, processing, compounding, or production of items of  
44 tangible personal property for sale shall be exempt from the tax  
45 imposed by this chapter. Parts and labor required to affix a  
46 mixer drum exempt under this paragraph to a mixer truck are also  
47 exempt. If at the time of purchase the purchaser furnishes the  
48 seller with a signed certificate certifying the purchaser's  
49 entitlement to exemption pursuant to this paragraph, the seller  
50 is relieved of the responsibility for collecting the tax on the  
51 sale of such items, and the department shall look solely to the  
52 purchaser for recovery of the tax if it determines that the  
53 purchaser was not entitled to the exemption.

54 2. For purposes of this paragraph, the term:

55 a. "Eligible manufacturing business" means any business  
56 whose primary business activity at the location where the  
57 industrial machinery and equipment is located is within the  
58 industries classified under NAICS codes 31, 32, and 33. As used

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59 in this subparagraph, "NAICS" means those classifications  
60 contained in the North American Industry Classification System,  
61 as published in 2007 by the Office of Management and Budget,  
62 Executive Office of the President.

63 b. "Primary business activity" means an activity  
64 representing more than fifty percent of the activities conducted  
65 at the location where the industrial machinery and equipment is  
66 located.

67 c. "Industrial machinery and equipment" means tangible  
68 personal property or other property that has a depreciable life  
69 of 3 years or more and that is used as an integral part in the  
70 manufacturing, processing, compounding, or production of  
71 tangible personal property for sale. A building and its  
72 structural components are not industrial machinery and equipment  
73 unless the building or structural component is so closely  
74 related to the industrial machinery and equipment that it houses  
75 or supports that the building or structural component can be  
76 expected to be replaced when the machinery and equipment are  
77 replaced. Heating and air conditioning systems are not  
78 industrial machinery and equipment unless the sole justification  
79 for their installation is to meet the requirements of the  
80 production process, even though the system may provide  
81 incidental comfort to employees or serve, to an insubstantial  
82 degree, nonproduction activities. The term includes parts and  
83 accessories for industrial machinery and equipment only to the  
84 extent that the parts and accessories are purchased prior to the  
85 date the machinery and equipment are placed in service.

86 ~~3. This paragraph is repealed April 30, 2017.~~

87 Section 2. This act shall take effect July 1, 2015.