

HB 4035

2015

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
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
39 eligible manufacturing businesses which is used at a fixed
40 location within this state, or a mixer drum affixed to a mixer
41 truck which is used at any location within this state to mix,
42 agitate, and transport freshly mixed concrete in a plastic
43 state, for the manufacture, processing, compounding, or
44 production of items of tangible personal property for sale shall
45 be exempt from the tax imposed by this chapter. Parts and labor
46 required to affix a mixer drum exempt under this paragraph to a
47 mixer truck are also exempt. If at the time of purchase the
48 purchaser furnishes the seller with a signed certificate
49 certifying the purchaser's entitlement to exemption pursuant to
50 this paragraph, the seller is relieved of the responsibility for
51 collecting the tax on the sale of such items, and the department
52 shall look solely to the purchaser for recovery of the tax if it

53 determines that the 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
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

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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.