

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 544

INTRODUCER: Senator Hukill and others

SUBJECT: Exemption from the Sales and Use Tax for Certain Machinery and Equipment

DATE: March 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 544 removes the expiration date for the exemption from sales and use tax for certain industrial machinery and equipment.

The bill specifies that the repeal date of April 30, 2017, is still in effect for the sales and use tax exemption for mixer drums affixed to a cement mixer truck.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions.¹

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S. The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold or delivered into, and is levied in addition to the state sales and use tax of 6 percent.

¹ Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Mar. 18, 2015).

Industrial Manufacturing and Equipment Sales Tax Exemption

Current law allows industrial machinery and equipment purchased by eligible manufacturing businesses to be exempt from state sales and use tax.² The machinery or equipment must be used at a fixed location in the state. Eligible businesses must be classified in the North American Industry Classification System (NAICS) under codes 31, 32 or 33. Types of manufacturing establishments that are classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.³ For the purposes of the exemption, “industrial machinery and equipment” means tangible personal property that has a depreciable life of 3 or more years and is used in the manufacturing, processing, compounding, or production of tangible personal property for sale.

The law also allows the exemption for a mixer drum affixed to a mixer truck used at locations in the state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacturing, processing, compounding, or production of tangible personal property for sale. Parts and labor required to affix a mixer drum, that is exempt from sales and use tax, to a mixer truck are also exempt.

These exemptions are set to repeal April 30, 2017.

Manufacturing Industry in Florida

According to Enterprise Florida, Inc., (EFI) there are more than 18,200 manufacturing companies and more than 317,000 manufacturing employees in Florida. These companies produce a variety of manufactured goods including aerospace products, batteries, food and beverages, communications equipment, pharmaceuticals, semiconductors, and boats.⁴

III. Effect of Proposed Changes:

The bill removes the expiration date for the exemption from sales and use tax for certain industrial machinery and equipment under s. 212.08(7)(kkk), F.S.

The bill removes language in subparagraph 1., s. 212.08(7)(kkk), F.S., relating to the sales and use tax exemption for mixer drums, and creates a separate subparagraph 3., to provide and describe the mixer drum exemption. The sales and use tax exemption for mixer drums is still subject to repeal on April 30, 2017.

² Section 212.08(7)(kkk), F.S.

³ The Manufacturers Association of Florida has provided a complete list of the manufacturing sectors that are classified under the relevant NAICS codes, available at: https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf (last visited Mar. 18, 2015).

⁴ Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (June 2014) available at: <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Mar 18, 2015).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution, governs laws that require counties and municipalities to spend funds or limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989, except where the Legislature passes such a law by two-thirds of the membership of each chamber.

Subsection (c) of this provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce the percentage of a state tax shared with counties and municipalities. The exception to this prohibition exists where the Legislature passes such law by two-thirds of the membership of each chamber.

Subsection (d) provides an exemption from these provisions. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$2,014,830 for FY 2014-2015⁵), are exempt.⁶

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminate, but positive.

⁵ Based on the Demographic Estimating Conference’s population adopted on February 11, 2015. The post-conference packet can be found at: <http://edr.state.fl.us/Content/conferences/population/index.cfm> (last visited March 18, 2015).

⁶ See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 18, 2015).

C. Government Sector Impact:

The current exemption for industrial machinery and equipment continues through April 2017. Thus, the bill does not have a cash impact in Fiscal Years 2015-16 or 2016-17. The Revenue Estimating conference has determined that the bill will reduce General Revenue receipts by \$122.4 million in Fiscal Year 2017-18, with a \$122.4 million recurring impact. The bill will reduce local revenue by \$27.4 million in Fiscal Year 2017-18, with a \$27.4 million recurring impact.⁷

The Department of Revenue reported that the bill will have an insignificant expenditure impact on the department.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ Florida Revenue Estimating Conference, *HB 613 / SB 544*, 2, (Feb. 13, 2015) available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page88-96.pdf (last visited Mar. 18, 2015).

⁸ Florida Department of Revenue, *2015 Department of Revenue Legislative Bill Analysis: SB 544*, (Feb. 12, 2015), available at: <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=5293> (last visited Mar. 18, 2015).