

HB 35A

2015A

1 A bill to be entitled

2 An act relating to the exemption from the sales and
3 use tax for certain machinery and equipment; amending
4 s. 212.08, F.S.; providing an exemption from the sales
5 and use tax for certain mixer drums and the parts and
6 labor required to affix such mixer drums to mixer
7 trucks; providing that such exemption is repealed on a
8 specified date; deleting the expiration date for the
9 exemption from the sales and use tax for certain
10 industrial machinery and equipment; providing for
11 construction of the act in pari materia with laws
12 enacted during the 2015 Regular Session of the
13 Legislature; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Paragraph (kkk) of subsection (7) of section
18 212.08, Florida Statutes, is amended to read:

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

25 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
26 entity by this chapter do not inure to any transaction that is

27 otherwise taxable under this chapter when payment is made by a
 28 representative or employee of the entity by any means,
 29 including, but not limited to, cash, check, or credit card, even
 30 when that representative or employee is subsequently reimbursed
 31 by the entity. In addition, exemptions provided to any entity by
 32 this subsection do not inure to any transaction that is
 33 otherwise taxable under this chapter unless the entity has
 34 obtained a sales tax exemption certificate from the department
 35 or the entity obtains or provides other documentation as
 36 required by the department. Eligible purchases or leases made
 37 with such a certificate must be in strict compliance with this
 38 subsection and departmental rules, and any person who makes an
 39 exempt purchase with a certificate that is not in strict
 40 compliance with this subsection and the rules is liable for and
 41 shall pay the tax. The department may adopt rules to administer
 42 this subsection.

43 (kkk) Certain machinery and equipment.—

44 1. Industrial machinery and equipment purchased by
 45 eligible manufacturing businesses which are ~~is~~ used at a fixed
 46 location in ~~within~~ this state, ~~or a mixer drum affixed to a~~
 47 ~~mixer truck which is used at any location within this state to~~
 48 ~~mix, agitate, and transport freshly mixed concrete in a plastic~~
 49 ~~state, for the manufacture, processing, compounding, or~~
 50 ~~production of items of tangible personal property for sale shall~~
 51 be exempt from the tax imposed by this chapter. ~~Parts and labor~~
 52 ~~required to affix a mixer drum exempt under this paragraph to a~~

53 ~~mixer truck are also exempt.~~ If, at the time of purchase, the
54 purchaser furnishes the seller with a signed certificate
55 certifying the purchaser's entitlement to exemption pursuant to
56 this subparagraph ~~paragraph~~, the seller is relieved of the
57 responsibility for collecting the tax on the sale of such items,
58 and the department shall look solely to the purchaser for
59 recovery of the tax if it determines that the purchaser was not
60 entitled to the exemption.

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

62 a. "Eligible manufacturing business" means any business
63 whose primary business activity at the location where the
64 industrial machinery and equipment is located is within the
65 industries classified under NAICS codes 31, 32, and 33. As used
66 in this subparagraph, "NAICS" means those classifications
67 contained in the North American Industry Classification System,
68 as published in 2007 by the Office of Management and Budget,
69 Executive Office of the President.

70 b. "Primary business activity" means an activity
71 representing more than 50 ~~fifty~~ percent of the activities
72 conducted at the location where the industrial machinery and
73 equipment is located.

74 c. "Industrial machinery and equipment" means tangible
75 personal property or other property that has a depreciable life
76 of 3 years or more and that is used as an integral part in the
77 manufacturing, processing, compounding, or production of
78 tangible personal property for sale. A building and its

79 structural components are not industrial machinery and equipment
80 unless the building or structural component is so closely
81 related to the industrial machinery and equipment that it houses
82 or supports that the building or structural component can be
83 expected to be replaced when the machinery and equipment are
84 replaced. Heating and air conditioning systems are not
85 industrial machinery and equipment unless the sole justification
86 for their installation is to meet the requirements of the
87 production process, even though the system may provide
88 incidental comfort to employees or serve, to an insubstantial
89 degree, nonproduction activities. The term includes parts and
90 accessories for industrial machinery and equipment only to the
91 extent that the parts and accessories are purchased prior to the
92 date the machinery and equipment are placed in service.

93 3. A mixer drum affixed to a mixer truck that is used at
94 any location in this state to mix, agitate, and transport
95 freshly mixed concrete in a plastic state for the manufacture,
96 processing, compounding, or production of items of tangible
97 personal property for sale is exempt from the tax imposed by
98 this chapter. Parts and labor required to affix a mixer drum
99 exempt under this subparagraph to a mixer truck are also exempt.
100 If, at the time of purchase, the purchaser furnishes the seller
101 with a signed certificate certifying the purchaser's entitlement
102 to exemption pursuant to this subparagraph, the seller is
103 relieved of the responsibility for collecting the tax on the
104 sale of such items, and the department shall look solely to the

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105 purchaser for recovery of the tax if it determines that the
106 purchaser was not entitled to the exemption. This subparagraph
107 ~~paragraph~~ is repealed April 30, 2017.

108 Section 2. If any law amended by this act was also amended
109 by a law enacted during the 2015 Regular Session of the
110 Legislature, such laws shall be construed as if enacted during
111 the same session of the Legislature, and full effect shall be
112 given to each if possible.

113 Section 3. This act shall take effect July 1, 2015.