

By the Committee on Finance and Tax; and Senators Hukill,
Latvala, Hays, and Simpson

593-02547-16

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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 that the exemption for
5 certain mixer drums and the parts and labor required
6 to affix such mixer drums to mixer trucks is repealed
7 on a specified date; deleting the expiration date for
8 the exemption for certain industrial machinery and
9 equipment; providing an effective date.

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

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13 Section 1. Paragraph (kkk) of subsection (7) of section
14 212.08, Florida Statutes, is amended to read:

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

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

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

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

40 1. Industrial machinery and equipment purchased by eligible
41 manufacturing businesses which is used at a fixed location in
42 ~~within this state, or a mixer drum affixed to a mixer truck~~
43 ~~which is used at any location within this state to mix, agitate,~~
44 ~~and transport freshly mixed concrete in a plastic state, for the~~
45 ~~manufacture, processing, compounding, or production of items of~~
46 ~~tangible personal property for sale shall be exempt from the tax~~
47 ~~imposed by this chapter. Parts and labor required to affix a~~
48 ~~mixer drum exempt under this paragraph to a mixer truck are also~~
49 ~~exempt.~~ If, at the time of purchase, the purchaser furnishes the
50 seller with a signed certificate certifying the purchaser's
51 entitlement to exemption pursuant to this subparagraph and
52 subparagraph 2. paragraph, the seller is relieved of the
53 responsibility for collecting the tax on the sale of such items,
54 and the department shall look solely to the purchaser for
55 recovery of the tax if it determines that the purchaser was not
56 entitled to the exemption.

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

58 a. "Eligible manufacturing business" means any business
59 whose primary business activity at the location where the
60 industrial machinery and equipment is located is within the

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61 industries classified under NAICS codes 31, 32, and 33. As used
62 in this subparagraph, "NAICS" means those classifications
63 contained in the North American Industry Classification System,
64 as published in 2007 by the Office of Management and Budget,
65 Executive Office of the President.

66 b. "Primary business activity" means an activity
67 representing more than 50 percent of the activities conducted at
68 the location where the industrial machinery and equipment is
69 located.

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

89 3. A mixer drum affixed to a mixer truck which is used at

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90 any location in this state to mix, agitate, and transport
91 freshly mixed concrete in a plastic state for the manufacture,
92 processing, compounding, or production of items of tangible
93 personal property for sale shall be exempt from the tax imposed
94 by this chapter. Parts and labor required to affix a mixer drum
95 exempt under this subparagraph to a mixer truck are also exempt.
96 If, at the time of purchase, the purchaser furnishes the seller
97 with a signed certificate certifying the purchaser's entitlement
98 to exemption pursuant to this subparagraph, the seller is
99 relieved of the responsibility for collecting the tax on the
100 sale of such items, and the department shall look solely to the
101 purchaser for recovery of the tax if it determines that the
102 purchaser was not entitled to the exemption. This subparagraph
103 ~~paragraph~~ is repealed April 30, 2017.

104 Section 2. This act shall take effect July 1, 2016.