

By the Committee on Ways and Means and Senators Latvala and Bronson

301-1979-98

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A bill to be entitled
An act relating to the tax on sales, use, and other transactions; revising the activities that constitute a manufacturing function for purposes of the sales tax exemption on certain uses of electricity; exempting the sale of steam energy used in manufacturing; providing a threshold for electricity use; deleting a requirement that the electricity be separately metered; revising the applicability of the exemption; providing an effective date.

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

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

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

(7) MISCELLANEOUS EXEMPTIONS.--

(ii) Certain electricity uses.--

1. Charges for electricity or steam used to operate machinery and equipment directly and exclusively at a fixed location in this state when such to operate machinery and equipment that is used to manufacture, process, compound, or produce, or prepare for shipment items of tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or

1 control equipment used in such operations are exempt to the
2 extent provided in this paragraph from the tax imposed by this
3 chapter as provided in subparagraph 2. In order to qualify for
4 this exemption, 75 percent or more, of the electricity used at
5 the fixed location must be used to operate qualifying
6 machinery or equipment. If less than 75 percent, but 50
7 percent or more, of the electricity is used at a fixed
8 location to operate qualifying machinery or equipment, then it
9 is presumed that 50 percent of the charge for electricity is
10 for nonexempt purposes ~~The exemption provided for herein is~~
11 ~~applicable if the electricity that is used for the exempt~~
12 ~~purposes is separately metered, or if it is not separately~~
13 ~~metered, it is irrevocably presumed that 50 percent of the~~
14 ~~charge for electricity is for nonexempt purposes.~~

15 2. This exemption ~~only~~ applies only to industries
16 classified under SIC Industry Major Group Numbers 10, 12, 13,
17 14, 20, ~~21~~, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33,
18 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC"
19 means those classifications contained in the Standard
20 Industrial Classification Manual, 1987, as published by the
21 Office of Management and Budget, Executive Office of the
22 President.

23 3. Possession by a seller of a written certification
24 by the purchaser, certifying the purchaser's entitlement to an
25 exemption permitted by this subsection, relieves the seller
26 from the responsibility of collecting the tax on the
27 nontaxable amounts, and the department shall look solely to
28 the purchaser for recovery of such tax if it determines that
29 the purchaser was not entitled to the exemption.

30 4. Such exemption shall be applied as follows:
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1 ~~1. Beginning July 1, 1996, 20 percent of the charges~~
2 ~~for such electricity shall be exempt.~~

3 ~~2. Beginning July 1, 1997, 40 percent of the charges~~
4 ~~for such electricity shall be exempt.~~

5 ~~a.3.~~ Beginning July 1, 1998, 60 percent of the
6 charges for such electricity or steam shall be exempt.

7 ~~b.4.~~ Beginning July 1, 1999, 80 percent of the
8 charges for such electricity or steam shall be exempt.

9 ~~c.5.~~ Beginning July 1, 2000, 100 percent of the
10 charges for such electricity or steam shall be exempt.

11 5. Notwithstanding any other provision in this
12 paragraph to the contrary, in order to receive the exemption
13 provided in this paragraph a taxpayer must first register with
14 the WAGES Program Business Registry established by the local
15 WAGES coalition for the area in which the taxpayer is located.
16 Such registration establishes a commitment on the part of the
17 taxpayer to hire WAGES program participants to the maximum
18 extent possible consistent with the nature of their business.

19 6.a. In order to determine whether the exemption
20 provided in this paragraph from the tax on charges for
21 electricity or steam has an effect on retaining or attracting
22 companies to this state, the Office of Program Policy Analysis
23 and Governmental Accountability shall periodically monitor and
24 report on the industries receiving the exemption.

25 b. The first report shall be submitted no later than
26 January 1, 1997, and must be conducted in such a manner as to
27 specifically determine the number of companies within each SIC
28 Industry Major Group receiving the exemption as of September
29 1, 1996, and the number of individuals employed by companies
30 within each SIC Industry Major Group receiving the exemption
31 as of September 1, 1996.

1 c. The second report shall be submitted no later than
2 January 1, 2001, and must be comprehensive in scope, but, at a
3 minimum, must be conducted in such a manner as to specifically
4 determine the number of companies within each SIC Industry
5 Major Group receiving the exemption as of September 1, 2000,
6 the number of individuals employed by companies within each
7 SIC Industry Major Group receiving the exemption as of
8 September 1, 2000, whether the change, if any, in such number
9 of companies or employees is attributable to the exemption
10 provided in this paragraph, whether it would be sound public
11 policy to continue or discontinue the exemption, and the
12 consequences of doing so.

13 d. Both reports shall be submitted to the President of
14 the Senate, the Speaker of the House of Representatives, the
15 Senate Minority Leader, and the House Minority Leader.

16 Section 2. This act shall take effect July 1, 1998.

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 SB 338

21 The committee substitute makes several technical changes which
22 clarify that the bill has no retroactive impact. It also
23 removes cigar manufacturers from the list of industries
24 eligible to receive an exemption on purchases of electricity
25 and steam.

26 The committee substitute also provides that for manufacturers
27 that use less than 75 percent but at least 50 percent of their
28 electricity directly for manufacturing and do not separately
29 meter, 50 percent of their electricity purchases are presumed
30 to be for nonexempt purposes.
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