

By Senator Hukill

8-00004A-15A

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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6 to affix such mixer drums is repealed on a specified
7 date; deleting the expiration date for the exemption
8 for certain industrial machinery and equipment;
9 providing for construction of the act in pari materia
10 with laws enacted during the 2015 Regular Session of
11 the Legislature; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraph (kkk) of subsection (7) of section
16 212.08, Florida Statutes, is amended to read:

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

23 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
24 entity by this chapter do not inure to any transaction that is
25 otherwise taxable under this chapter when payment is made by a
26 representative or employee of the entity by any means,
27 including, but not limited to, cash, check, or credit card, even
28 when that representative or employee is subsequently reimbursed
29 by the entity. In addition, exemptions provided to any entity by

8-00004A-15A

201510A__

30 this subsection do not inure to any transaction that is
31 otherwise taxable under this chapter unless the entity has
32 obtained a sales tax exemption certificate from the department
33 or the entity obtains or provides other documentation as
34 required by the department. Eligible purchases or leases made
35 with such a certificate must be in strict compliance with this
36 subsection and departmental rules, and any person who makes an
37 exempt purchase with a certificate that is not in strict
38 compliance with this subsection and the rules is liable for and
39 shall pay the tax. The department may adopt rules to administer
40 this subsection.

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

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

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

8-00004A-15A

201510A__

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

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

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

8-00004A-15A

201510A__

88 extent that the parts and accessories are purchased prior to the
89 date the machinery and equipment are placed in service.

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

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

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