

**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.)

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

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BILL: SB 98

INTRODUCER: Senators Hukill and Latvala

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

DATE: January 8, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 98 removes the April 30, 2017, expiration date for the exemption from sales and use tax for certain industrial machinery and equipment.

In addition, the bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

The current exemption for industrial machinery and equipment continues through April 2017, thus the bill does not have a cash impact in Fiscal Year 2016-2017. The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. The bill will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.<sup>1</sup>

The bill takes effect July 1, 2016.

**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

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<sup>1</sup> Florida Revenue Estimating Conference, *HB 115/SB 98*, 64-72, (Oct. 9, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/Impact1016.pdf> (last visited Jan. 5, 2016).

are currently more than 200 different exemptions, exclusions, deductions, and credits from sales and use tax.<sup>2</sup>

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 by ch. 212, F.S. The discretionary sales surtax is based on the tax rate imposed in the county where the taxable goods or services are sold, or delivered into.

### **Industrial Manufacturing and Equipment Sales Tax Exemption**

Since April 30, 2014, the state has provided an exemption from the sales and use tax for industrial machinery and equipment purchased by an eligible manufacturing business.<sup>3</sup> The machinery or equipment must be used at a fixed location in the state and eligible businesses include only those classified in the North American Industry Classification System (NAICS) under codes 31, 32, or 33. Manufacturing establishments classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.<sup>4</sup> 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 term “industrial machinery and equipment” also includes parts and accessories that are purchased prior to the industrial machinery and equipment being placed in service.<sup>5</sup>

The state also provides an 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 to a mixer truck are also exempt.<sup>6</sup>

These exemptions are repealed April 30, 2017.

### **Manufacturing Industry in Florida**

According to Enterprise Florida, Inc., (EFI) there are more than 18,600 manufacturing companies and more than 321,000 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.<sup>7</sup>

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<sup>2</sup> Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Jan. 5, 2016).

<sup>3</sup> Section 212.08(7)(kkk), F.S.

<sup>4</sup> 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](https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf) (last visited Jan. 5, 2016).

<sup>5</sup> Section 212.08(7)(kkk)2.c., F.S.

<sup>6</sup> Section 212.08(7)(kkk)1., F.S.

<sup>7</sup> Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (Revised Sep. 2015) available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Jan. 5, 2016).

### III. Effect of Proposed Changes:

The bill removes the repeal date for the exemption from sales and use tax for certain industrial machinery and equipment purchased by an eligible business.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Art VII of the Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact.

The bill provides a sales tax exemption that may reduce counties' local option sales tax collections, thereby reducing their revenue-raising authority. If the fiscal impact of this provision is found to be significant, the bill may require a two-thirds vote of the membership.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

The current exemption for industrial machinery and equipment continues through April 2017, thus the bill does not have a cash impact in Fiscal Year 2016-2017. The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. The bill will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.<sup>8</sup>

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**B. Private Sector Impact:**

Indeterminate, but positive. Eligible manufacturing companies will see a reduction in the cost of purchasing certain machinery and equipment.

**C. Government Sector Impact:**

The Department of Revenue reported that the bill will have an insignificant expenditure impact on the department.<sup>9</sup>

**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.

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

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<sup>9</sup> Florida Department of Revenue, *Senate Bill 98 Fiscal Analysis* (Sep. 24, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=7237> (last visited Jan. 5, 2016).