

By Senator Hukill

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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6 to affix such mixer drums to mixer trucks is repealed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

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30 obtained a sales tax exemption certificate from the department
31 or the entity obtains or provides other documentation as
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
52 ~~paragraph,~~ the seller is relieved of the responsibility for
53 collecting the tax on the sale of such items, and the department
54 shall look solely to the purchaser for recovery of the tax if it
55 determines that the purchaser was not entitled to the exemption.

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

57 a. "Eligible manufacturing business" means any business
58 whose primary business activity at the location where the

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

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

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

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

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