

1 A bill to be entitled
 2 An act relating to tax exemptions; amending s. 212.08,
 3 F.S.; providing an exemption from the sales tax for
 4 parts and accessories necessary for industrial
 5 machinery or equipment under specified circumstances;
 6 providing an effective date.

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

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 10 Section 1. Paragraph (jjj) of subsection (7) of section
 11 212.08, Florida Statutes, is amended to read:

12 212.08 Sales, rental, use, consumption, distribution, and
 13 storage tax; specified exemptions.—The sale at retail, the
 14 rental, the use, the consumption, the distribution, and the
 15 storage to be used or consumed in this state of the following
 16 are hereby specifically exempt from the tax imposed by this
 17 chapter.

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

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

36 (jjj) Certain machinery and equipment.—

37 1. Industrial machinery and equipment purchased by
38 eligible manufacturing businesses which is used at a fixed
39 location in this state for the manufacture, processing,
40 compounding, or production of items of tangible personal
41 property for sale is exempt from the tax imposed by this
42 chapter. If, at the time of purchase, the purchaser furnishes
43 the seller with a signed certificate certifying the purchaser's
44 entitlement to exemption pursuant to this paragraph, the seller
45 is not required to collect the tax on the sale of such items,
46 and the department shall look solely to the purchaser for
47 recovery of the tax if it determines that the purchaser was not
48 entitled to the exemption.

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

50 a. "Eligible manufacturing business" means any business

51 | whose primary business activity at the location where the
52 | industrial machinery and equipment is located is within the
53 | industries classified under NAICS codes 31, 32, 33, 112511, and
54 | 423930.

55 | b. "Eligible postharvest activity business" means a
56 | business whose primary business activity, at the location where
57 | the postharvest machinery and equipment is located, is within
58 | the industries classified under NAICS code 115114.

59 | c. "NAICS" means those classifications contained in the
60 | North American Industry Classification System, as published in
61 | 2007 by the Office of Management and Budget, Executive Office of
62 | the President.

63 | d. "Primary business activity" means an activity
64 | representing more than 50 percent of the activities conducted at
65 | the location where the industrial machinery and equipment or
66 | postharvest machinery and equipment is located.

67 | e. "Industrial machinery and equipment" means tangible
68 | personal property or other property that has a depreciable life
69 | of 3 years or more and that is used as an integral part in the
70 | manufacturing, processing, compounding, or production of
71 | tangible personal property for sale. The term includes tangible
72 | personal property or other property that has a depreciable life
73 | of 3 years or more which is used as an integral part in the
74 | recycling of metals for sale. A building and its structural
75 | components are not industrial machinery and equipment unless the

76 | building or structural component is so closely related to the
77 | industrial machinery and equipment that it houses or supports
78 | that the building or structural component can be expected to be
79 | replaced when the machinery and equipment are replaced. Heating
80 | and air conditioning systems are not industrial machinery and
81 | equipment unless the sole justification for their installation
82 | is to meet the requirements of the production process, even
83 | though the system may provide incidental comfort to employees or
84 | serve, to an insubstantial degree, nonproduction activities. The
85 | term includes parts and accessories for industrial machinery and
86 | equipment only to the extent that the parts and accessories are
87 | necessary for the continued operation of the industrial
88 | machinery or equipment or were purchased before the date the
89 | machinery and equipment were ~~are~~ placed in service.

90 | f. "Postharvest activities" means services performed on
91 | crops, after their harvest, with the intent of preparing them
92 | for market or further processing. Postharvest activities
93 | include, but are not limited to, crop cleaning, sun drying,
94 | shelling, fumigating, curing, sorting, grading, packing, and
95 | cooling.

96 | g. "Postharvest machinery and equipment" means tangible
97 | personal property or other property with a depreciable life of 3
98 | years or more which is used primarily for postharvest
99 | activities. A building and its structural components are not
100 | postharvest industrial machinery and equipment unless the

101 building or structural component is so closely related to the
102 postharvest machinery and equipment that it houses or supports
103 that the building or structural component can be expected to be
104 replaced when the postharvest machinery and equipment is
105 replaced. Heating and air conditioning systems are not
106 postharvest machinery and equipment unless the sole
107 justification for their installation is to meet the requirements
108 of the postharvest activities process, even though the system
109 may provide incidental comfort to employees or serve, to an
110 insubstantial degree, nonpostharvest activities.

111 3. Postharvest machinery and equipment purchased by an
112 eligible postharvest activity business which is used at a fixed
113 location in this state is exempt from the tax imposed by this
114 chapter. All labor charges for the repair of, and parts and
115 materials used in the repair of and incorporated into, such
116 postharvest machinery and equipment are also exempt. If, at the
117 time of purchase, the purchaser furnishes the seller with a
118 signed certificate certifying the purchaser's entitlement to
119 exemption pursuant to this subparagraph, the seller is not
120 required to collect the tax on the sale of such items, and the
121 department shall look solely to the purchaser for recovery of
122 the tax if it determines that the purchaser was not entitled to
123 the exemption.

124 Section 2. This act shall take effect October 1, 2020.