

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 441

5 By: Senator D. Wallace
6 By: Representative Joey Carr
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE SALES AND USE TAX LAWS CONCERNING
10 EXEMPTIONS RELATED TO CERTAIN MACHINERY AND
11 EQUIPMENT; TO AMEND THE SALES TAX EXEMPTION FOR
12 CERTAIN MACHINERY AND EQUIPMENT; TO AMEND THE SALES
13 AND USE TAX EXEMPTIONS FOR THE PARTIAL REPAIR AND
14 REPLACEMENT OF CERTAIN MACHINERY AND EQUIPMENT; TO
15 ALLOW A SALES AND USE TAX EXEMPTION FOR CERTAIN
16 MACHINERY AND EQUIPMENT PLACED IN INVENTORY; AND FOR
17 OTHER PURPOSES.

Subtitle

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21 TO AMEND THE SALES AND USE TAX LAWS
22 CONCERNING EXEMPTIONS RELATED TO CERTAIN
23 MACHINERY AND EQUIPMENT; AND TO ALLOW A
24 SALES AND USE TAX EXEMPTION FOR CERTAIN
25 MACHINERY AND EQUIPMENT PLACED IN
26 INVENTORY.

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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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31 SECTION 1. Arkansas Code § 26-52-402(c)(2)(C), concerning the
32 definition of "used directly" as used in relation to the sales tax exemption
33 for certain machinery and equipment, is amended to read as follows:

34 (C) Machinery and equipment "used directly" in the
35 manufacturing process shall not include the following:

36 (i) Hand tools;



1 (ii) Machinery Except as provided in §§ 26-52-447
2 and 26-53-149, machinery, equipment, and tools used in maintaining and
3 repairing any type of machinery and equipment;

4 (iii) Transportation equipment, including conveyors,
5 used solely before or after the manufacturing process has been started or
6 completed;

7 (iv) Office machines and equipment including
8 computers and related peripheral equipment not directly used in controlling
9 or measuring the manufacturing process;

10 (v) Buildings;

11 (vi) Machinery and equipment used in administrative,
12 accounting, sales, or other such activities of the business;

13 (vii) All furniture; and

14 (viii) All other machinery and equipment not used
15 directly in manufacturing or processing operations as defined in this
16 section; ~~and~~

17 ~~(ix) Machinery and equipment used by a manufacturer~~
18 ~~to produce or repair replacement dies, molds, repair parts, or replacement~~
19 ~~parts used or consumed in the manufacturer's own manufacturing process.~~

21 SECTION 2. Arkansas Code § 26-52-447(a), concerning the sales tax
22 exemption for the partial replacement and repair of certain machinery and
23 equipment, is amended to read as follows:

24 (a) The taxes levied under §§ 26-52-301 and 26-52-302 on the gross
25 receipts or gross proceeds from the sale of the following are subject to a
26 refund or exemption as provided in this section:

27 (1) Machinery and equipment purchased to modify, replace, ~~or~~
28 repair, or maintain, either in whole or in part, existing machinery or
29 equipment used directly in producing, manufacturing, fabricating, assembling,
30 processing, finishing, or packaging articles of commerce at a manufacturing
31 or processing plant or facility in this state;

32 (2) Service relating to the initial installation, alteration,
33 addition, cleaning, refinishing, replacement, or repair of machinery or
34 equipment described in subdivision (a)(1) of this section; ~~and~~

35 (3) Machinery and equipment purchased to modify, replace, or
36 repair, either in whole or in part, existing molds and dies used directly in

1 producing, manufacturing, fabricating, assembling, processing, finishing, or
2 packaging articles of commerce at a manufacturing or processing plant or
3 facility in this state; and

4 (4)(A) Except as provided in subdivision (a)(4)(B) of this
5 section, machinery and equipment purchased for use or possible use by a
6 taxpayer for a purpose described in subsections (a)(1)-(3) of this section
7 and placed in inventory for later use by the taxpayer for a purpose described
8 in subsections (a)(1)-(3) of this section.

9 (B)(i) As used in this subdivision (a)(4)(B), “withdrawal
10 from inventory” means the withdrawal or use of machinery or equipment held
11 under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that
12 does not qualify for an exemption under this section or any other applicable
13 exemption at the time of the withdrawal from inventory.

14 (ii) A withdrawal from inventory is not eligible for
15 the exemption provided under this section.

16 (iii) For purposes of calculating the gross receipts
17 tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts or
18 gross proceeds for a withdrawal from inventory is the purchase price of the
19 machinery or equipment withdrawn.

20 (iv) Tax is due on a withdrawal from inventory at
21 the time the withdrawal from inventory occurs.

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23 SECTION 3. Arkansas Code § 26-53-149(a), concerning the compensating
24 use tax exemption for the partial replacement and repair of certain machinery
25 and equipment, is amended to read as follows:

26 (a) The taxes levied under §§ 26-53-106 and 26-53-107 on the privilege
27 of storing, using, distributing, or consuming the following within this state
28 are subject to a refund or exemption as provided in this section:

29 (1) Machinery and equipment purchased to modify, replace, ~~or~~
30 repair, or maintain, either in whole or in part, existing machinery or
31 equipment used directly in producing, manufacturing, fabricating, assembling,
32 processing, finishing, or packaging articles of commerce at a manufacturing
33 or processing plant or facility in this state;

34 (2) Service relating to the initial installation, alteration,
35 addition, cleaning, refinishing, replacement, or repair of machinery or
36 equipment described in subdivision (a)(1) of this section; ~~and~~

1 (3) Machinery and equipment purchased to modify, replace, or
2 repair, either in whole or in part, existing molds and dies used directly in
3 producing, manufacturing, fabricating, assembling, processing, finishing, or
4 packaging articles of commerce at a manufacturing or processing plant or
5 facility in this state; and

6 (4)(A) Except as provided in subdivision (a)(4)(B) of this
7 section, machinery and equipment purchased for use or possible use by a
8 taxpayer for a purpose described in subsections (a)(1)-(3) of this section
9 and placed in inventory for later use by the taxpayer for a purpose described
10 in subsections (a)(1)-(3) of this section.

11 (B)(i) As used in this subdivision (a)(4)(B), “withdrawal
12 from inventory” means the withdrawal or use of machinery or equipment held
13 under subdivision (a)(4)(A) of this section by a taxpayer for a purpose that
14 does not qualify for an exemption under this section or any other applicable
15 exemption at the time of the withdrawal from inventory.

16 (ii) A withdrawal from inventory is not eligible for
17 the exemption provided under this section.

18 (iii) For purposes of calculating the compensating
19 use tax under subdivision (a)(4)(B)(iv) of this section, the gross receipts
20 or gross proceeds for a withdrawal from inventory is the purchase price of
21 the machinery or equipment withdrawn.

22 (iv) Tax is due on a withdrawal from inventory at
23 the time the withdrawal from inventory occurs.

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25 SECTION 4. EFFECTIVE DATE. Sections 1-3 of this act are effective on
26 the first day of the calendar quarter following the effective date of this
27 act.

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30 **APPROVED: 4/11/23**