

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 331

4 By: Senator Files

5
6 Filed with: Interim Senate Committee on Revenue and Taxation
7 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE EXEMPTION FROM SALES AND USE
9 TAX FOR REPLACEMENTS OF MANUFACTURING MACHINERY AND
10 EQUIPMENT THAT IMPROVE, MODERNIZE, AND EXPAND
11 EXISTING FACILITIES; TO DECLARE AN EMERGENCY; AND FOR
12 OTHER PURPOSES.
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Subtitle

15 TO CLARIFY THE EXEMPTION FROM SALES AND
16 USE TAX FOR REPLACEMENTS OF MANUFACTURING
17 MACHINERY AND EQUIPMENT THAT IMPROVE,
18 MODERNIZE, AND EXPAND EXISTING FACILITIES
19 AND TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 26-52-402(a)(2), concerning the sales tax
28 exemption for manufacturing machinery and equipment, is amended to read as
29 follows:

30 (2)(A)(i) Machinery purchased to replace existing machinery and
31 used directly in producing, manufacturing, fabricating, assembling,
32 processing, finishing, or packaging of articles of commerce at manufacturing
33 or processing plants or facilities in this state will be exempt under this
34 subdivision (a)(2).

35 (ii) Machinery purchased to replace existing
36 machinery includes machinery and equipment described in either subdivision

1 (a)(2)(B) or (a)(2)(C) of this section.

2 (B)(i) As used in subdivision (a)(2)(A) of this section,
3 "machinery purchased to replace existing machinery" means that substantially
4 all of the machinery and equipment required to perform an essential function
5 is physically replaced with new machinery.

6 (ii) As used in subdivision (a)(2)(B)(i) of this
7 section, "substantially" is intended to exclude routine repairs and
8 maintenance and partial replacements that do not improve efficiency or extend
9 the useful life of the entire machine, but it is not intended to mean that
10 foundations and minor components that can be economically adapted, rebuilt,
11 or refurbished must be completely replaced when replacement would be more
12 expensive or impracticable than adapting, rebuilding, or refurbishing the old
13 foundation or minor components.

14 (C)(i) As used in subdivision (a)(2)(A) of this section,
15 "machinery purchased to replace existing machinery" also means partial
16 replacements, additions or enhancements of machinery or equipment that:

17 (a) Improve efficiency or extend the useful
18 life of an entire machine as installed and utilized immediately before the
19 replacements, additions or enhancements were made;

20 (b) Modernize old, inefficient, or
21 technologically obsolete machinery or equipment; or

22 (c) Economically or physically expand existing
23 manufacturing or processing facilities within this state.

24 (ii) As used in subdivision (a)(2)(C)(i) of this
25 section, "partial replacements, additions, or enhancements" is intended to
26 exclude routine repairs and maintenance of machinery or equipment and partial
27 replacements that do not meet the requirements of subdivision (a)(2)(C)(i) of
28 this section.

29 (D) It is the intent of this subdivision (a)(2) to provide
30 the exemptions in subdivision (a)(1) of this section and this subdivision
31 (a)(2) as incentives to encourage the location of new manufacturing plants in
32 Arkansas, the expansion of existing manufacturing plants in Arkansas, and the
33 modernization of existing manufacturing plants in Arkansas through the
34 replacement of old, inefficient, or technologically obsolete machinery and
35 equipment;

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1 SECTION 2. Arkansas Code Section 26-53-114(a)(2), concerning the
 2 compensating use taxation of manufacturing machinery and equipment, is
 3 amended to read as follows:

4 (2)(A)(i) Machinery purchased to replace existing machinery ~~in~~
 5 ~~its entirety~~ and used directly in producing, manufacturing, fabricating,
 6 assembling, processing, finishing, or packaging of articles of commerce at
 7 manufacturing or processing plants or facilities in this state will be exempt
 8 under this section.

9 (ii) Machinery used to replace existing machinery
 10 includes machinery and equipment described in either subdivision (a)(2)(B) or
 11 (a)(2)(C) of this section.

12 (B)(i) As used in subdivision (a)(2)(A) of this section,
 13 "machinery purchased to replace existing machinery" means that substantially
 14 all of the machinery and equipment required to perform an essential function
 15 is physically replaced with new machinery.

16 (ii) As used in subdivision (a)(2)(B)(i) of this
 17 section "substantially" is intended to exclude routine repairs and
 18 maintenance and partial replacements that do not improve efficiency or extend
 19 the useful life of the entire machine, but it is not intended to mean that
 20 foundations and minor components ~~which~~ that can be economically adapted,
 21 rebuilt, or refurbished must be completely replaced when replacement would be
 22 more expensive or impracticable than adapting, rebuilding, or refurbishing
 23 the old foundation and minor components; ~~and.~~

24 (C)(i) As used in subdivision (a)(2)(A) of this section,
 25 "machinery purchased to replace existing machinery" also means partial
 26 replacements, additions, or enhancements of machinery or equipment that:

27 (a) Improve efficiency or extend the useful
 28 life of an entire machine as installed and utilized immediately before the
 29 replacements, additions or enhancements were made;

30 (b) Modernize old, inefficient, or
 31 technologically obsolete machinery or equipment; or

32 (c) Economically or physically expand existing
 33 manufacturing or processing facilities within this state.

34 (ii) As used in subdivision (a)(2)(C)(i) of this
 35 section, "partial replacements, additions, or enhancements" is intended to
 36 exclude routine repairs and maintenance of machinery or equipment and partial

1 replacements that do not meet the requirements of subdivision (a)(2)(C)(i) of
2 this section.

3 (D) It is the intent of this subdivision (a)(2) to provide
4 the exemptions in subdivision (a)(1) of this section and this subdivision
5 (a)(2) as incentives to encourage the location of new manufacturing plants in
6 Arkansas, expansion of existing manufacturing plants in Arkansas, and
7 modernization of existing manufacturing plants in Arkansas through the
8 replacement of old, inefficient, or technologically obsolete machinery and
9 equipment; and

10 (3) Machinery and equipment required by state or federal law or
11 regulations to be installed and utilized by manufacturing or processing
12 plants or facilities or cities or towns in this state to prevent or reduce
13 air or water pollution or contamination ~~which~~ that might otherwise result
14 from the operation of the plants or facility or city or town.

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16 SECTION 3. Emergency Clause. It is found and determined by the General
17 Assembly that differences of opinion have developed between the Department
18 of Finance and Administration and Arkansas manufacturers concerning the
19 meaning of important sections of the manufacturing machinery and equipment
20 exemption, including particularly the exemption for the purchase and
21 installation of machinery and equipment to modernize and improve the
22 efficiency of existing machinery and equipment or to expand production or
23 create new jobs that may not require the replacement of machines in their
24 entirety; that it is critical to encourage manufacturers to modernize and
25 retool their plants as economically as possible in order to remain
26 competitive and preserve Arkansas jobs; and that clarifications to confirm
27 the intent and purpose of the manufacturing machinery and equipment exemption
28 are appropriate. Therefore, an emergency is declared to exist and this act
29 being immediately necessary for the preservation of the public peace, health,
30 and safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,
33 the expiration of the period of time during which the Governor may veto the
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is
36 overridden, the date the last house overrides the veto.

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Referred by the Arkansas Senate

Prepared by: MAG/VJF