

Stricken language would be deleted from present law. Underlined language would be added to present law.

As Engrossed: H2/5/97

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1160

4  
5 By: Representative Young

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 26-52-402 REGARDING SALES  
10 TAX EXEMPTIONS TO EXPAND THE EXEMPTION FOR POLLUTION  
11 CONTROL EQUIPMENT AND MACHINERY; AND FOR OTHER PURPOSES."

## Subtitle

15 "TO EXPAND THE SALES TAX EXEMPTION FOR  
16 POLLUTION CONTROL EQUIPMENT AND  
17 MACHINERY."

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 26-52-402(a) is amended to read as follows:

23 "(a) There is specifically exempted from the tax imposed by this act,  
24 the following:

25 (1)(A) Gross receipts or gross proceeds derived from the sale of  
26 tangible personal property consisting of machinery and equipment used directly  
27 in producing, manufacturing, fabricating, assembling, processing, finishing,  
28 or packaging of articles of commerce at manufacturing or processing plants or  
29 facilities in the State of Arkansas, including facilities and plants for  
30 manufacturing of feed, processing of poultry or eggs, or both, and livestock,  
31 and the hatching of poultry, but only to the extent that the machinery and  
32 equipment is purchased and used for the purposes set forth in this  
33 subdivision;

34 (B) The machinery and equipment will be exempt under this  
35 subdivision if it is purchased and used to create new manufacturing or  
36 processing plants or facilities within this state or to expand existing

1 manufacturing or processing plants or facilities within this state;

2 (2)(A) Machinery purchased to replace existing machinery and used  
3 directly in producing, manufacturing, fabricating, assembling, processing,  
4 finishing, or packaging of articles of commerce at manufacturing or processing  
5 plants or facilities in this state will be exempt under this subdivision;

6 (B)(i) 'Machinery purchased to replace existing machinery' means  
7 that substantially all of the machinery and equipment required to perform an  
8 essential function is physically replaced with new machinery that performs the  
9 essential function more efficiently or with a longer useful life than the old  
10 machinery being replaced;

11 (ii) The term 'substantially' is intended to exclude routine  
12 repairs and maintenance and partial replacements that do not improve  
13 efficiency or extend the useful life of the entire machine, but it is not  
14 intended to mean that foundations and minor components that can be  
15 economically adapted, rebuilt, or refurbished must be completely replaced when  
16 replacement would be more expensive or impracticable than adapting,  
17 rebuilding, or refurbishing the old foundation or minor components;

18 (C) It is the intent of subdivision (a)(2) of this section to  
19 provide the foregoing exemptions as incentives to encourage the location of  
20 new manufacturing plants in Arkansas, the expansion of existing manufacturing  
21 plants in Arkansas, and the modernization of existing manufacturing plants in  
22 Arkansas through the replacement of old, inefficient, or technologically  
23 obsolete machinery and equipment; and

24 (3)(A) Gross receipts or gross proceeds derived from the sale of  
25 tangible personal property consisting of machinery and equipment ~~required by~~  
26 ~~state law or regulations to be installed and~~ which is directly or indirectly  
27 utilized by manufacturing and processing plants or facilities in this state to  
28 prevent or reduce air or water pollution or contamination which might  
29 otherwise result from the operation of the plant or facility.

30 (B) Machinery and equipment which is directly or indirectly utilized by  
31 cities or towns in this state to prevent or reduce air or water pollution or  
32 contamination which might otherwise result from the operation of the plants or  
33 facilities operated by the cities or towns.

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35 SECTION 2. Arkansas Code 26-53-114(a), pertaining to exemptions from  
36 use tax for certain machinery and equipment, is amended to read as follows:

1           "(a) There is specifically exempted from the taxes levied in this  
2 subchapter:

3           (1)(A) Machinery and equipment used directly in producing,  
4 manufacturing, fabricating, assembling, processing, finishing, or packaging of  
5 articles of commerce at manufacturing or processing plants or facilities in  
6 the State of Arkansas, including facilities and plants for manufacturing feed,  
7 processing of poultry and eggs and livestock and the hatching of poultry, but  
8 only to the extent that the machinery and equipment is purchased and used for  
9 the purposes set forth in this subdivision.

10           (B) Such machinery and equipment will be exempt under this section if it  
11 is purchased and used to create new manufacturing or processing plants or  
12 facilities within this state or to expand existing manufacturing or processing  
13 plants or facilities within this state;

14           (2)(A) Machinery purchased to replace existing machinery in its entirety  
15 and used directly in producing, manufacturing, fabricating, assembling,  
16 processing, finishing, or packaging of articles of commerce at manufacturing  
17 or processing plants or facilities in this state will be exempt under this  
18 section.

19           (B)(i) 'Machinery purchased to replace existing machinery' means that  
20 substantially all of the machinery and equipment required to perform an  
21 essential function is physically replaced with new machinery that performs the  
22 essential function more efficiently or with a longer useful life than the old  
23 machinery being replaced.

24           (ii) The term 'substantially' is intended to exclude routine repairs and  
25 maintenance and partial replacements that do not improve efficiency or extend  
26 the useful life of the entire machine, but it is not intended to mean that  
27 foundations and minor components which can be economically adapted, rebuilt,  
28 or refurbished must be completely replaced when replacement would be more  
29 expensive or impracticable than adapting, rebuilding, or refurbishing the old  
30 foundation and minor components;

31           (3) Machinery and equipment ~~required by state or federal law or~~  
32 ~~regulations to be installed and~~ which is directly or indirectly utilizes by  
33 manufacturing or processing plants or facilities or cities or towns in this  
34 state to prevent or reduce air or water pollution or contamination which might  
35 otherwise result from the operation of the plants or facility or city or  
36 town."

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SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/Rep. Young*