

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 256

By: Senator B. Johnson
By: Representative Beaty Jr.

For An Act To Be Entitled

AN ACT TO AMEND THE SALES AND USE TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT USED IN MANUFACTURING; TO INCLUDE MACHINERY AND EQUIPMENT USED IN RESEARCH AND DEVELOPMENT IN THE SALES AND USE TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT USED IN MANUFACTURING; AND FOR OTHER PURPOSES.

Subtitle

TO INCLUDE MACHINERY AND EQUIPMENT USED IN RESEARCH AND DEVELOPMENT IN THE SALES AND USE TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT USED IN MANUFACTURING.

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

SECTION 1. Arkansas Code § 26-52-402(a)(1)(A), concerning the items eligible for the sales tax exemption for certain machinery and equipment, is amended to read as follows:

(1)(A) Gross receipts or gross proceeds derived from the sale of tangible personal property consisting of machinery and equipment used directly in the research and development of or the producing, manufacturing, fabricating, assembling, processing, finishing, or packaging of articles of commerce at manufacturing or processing plants or facilities in the State of Arkansas, including facilities and plants for manufacturing of feed, processing of poultry or eggs, or both, and livestock, and the hatching of



poultry, but only to the extent that the machinery and equipment is purchased and used for the purposes set forth in this subdivision (a)(1).

SECTION 2. Arkansas Code § 26-52-402(a)(2)(A), concerning the items eligible for the sales tax exemption for certain machinery and equipment, is amended to read as follows:

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

SECTION 3. Arkansas Code § 26-52-402(c)(1), concerning the sales tax exemption for certain machinery and equipment, is amended to read as follows:

(c)(1)(A) It is the intent of this section to exempt only the machinery and equipment as shall be used directly in the actual manufacturing or processing operation at any time from the research and development stage, to the initial stage when actual manufacturing or processing begins, and through the completion of the finished article of commerce and the packaging of the finished end product.

(B) As used in this subsection, "directly" is used to limit the exemption to only the machinery and equipment used in research and development or actual production during processing, fabricating, or assembling raw materials or semifinished materials into the form in which the personal property is to be sold.

SECTION 4. Arkansas Code § 26-52-402(c)(2)(A) and (B), concerning the definition of "used directly" in relation to the sales tax exemption for certain machinery and equipment, are amended to read as follows:

(A)(i) Machinery and equipment used in actual production includes machinery and equipment that meet all other applicable requirements and which cause a recognizable and measurable mechanical, chemical, electrical, or electronic action to take place as a necessary and integral part of manufacturing, the absence of which would cause the manufacturing operation to cease.

(ii) "Directly" does not mean that the machinery and

equipment must come into direct physical contact with any of the materials that become necessary and integral parts of the finished product.

(iii) Machinery and equipment which handle raw, semifinished, or finished materials or property before research and development or the manufacturing process begins are not used directly in the manufacturing process.

(iv) Machinery and equipment which are necessary for purposes of storing the finished product are not used directly in the manufacturing process.

(v) Machinery and equipment used to transport or handle a product while manufacturing is taking place are used directly;

(B) Machinery and equipment "used directly" in the manufacturing process includes without limitation the following:

(i) Molds, frames, cavities, and forms that determine the physical characteristics of the finished product or its packaging material at any stage of the manufacturing process;

(ii) Dies, tools, and devices attached to or a part of a unit of machinery that determine the physical characteristics of the finished product or its packaging material at any stage of the manufacturing process;

(iii) Testing equipment to measure the quality of the finished product at any stage of the manufacturing process;

(iv) Computers and related peripheral equipment that directly control or measure the manufacturing process;

(v) Machinery and equipment that produce steam, electricity, or chemical catalysts and solutions that are essential to the manufacturing process but which are consumed during the course of the manufacturing process and do not become necessary and integral parts of the finished product; ~~and~~

(vi) Sand and other proppants used to complete a new oil or gas well or to re-complete, redrill, or expand an existing oil or gas well; and

(vii) Machinery and equipment used in the research and development of new articles of commerce; and

SECTION 5. Arkansas Code § 26-53-114(a)(1)(A), concerning the items

eligible for the compensating use tax exemption for certain machinery and equipment, is amended to read as follows:

(1)(A) Only to the extent that the machinery and equipment is purchased and used for the purposes set forth in this subdivision (a)(1), machinery and equipment used directly in the research and development of or the producing, manufacturing, fabricating, assembling, processing, finishing, or packaging of articles of commerce at manufacturing or processing plants or facilities in the State of Arkansas, including facilities and plants for manufacturing feed, processing of poultry and eggs and livestock, and the hatching of poultry.

SECTION 6. Arkansas Code § 26-53-114(a)(2)(A), concerning the items eligible for the compensating use tax exemption for certain machinery and equipment, is amended to read as follows:

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

SECTION 7. Arkansas Code § 26-53-114(c)(1) and (2), concerning the compensating use tax exemption for certain machinery and equipment, are amended to read as follows:

(c)(1) It is the intent of this section to exempt only such machinery and equipment as shall be used directly in the actual manufacturing or processing operation at any time from the research and development stage, to the initial stage when actual manufacturing or processing begins, and through the completion of the finished article of commerce and the packaging of the finished end product.

(2) As used in this section, "directly" is used to limit the exemption to only the machinery and equipment used in research and development or actual production during processing, fabricating, or assembling raw materials or semifinished materials into the form in which the personal property is to be sold in the commercial market.

SECTION 8. Arkansas Code § 26-53-114(c)(3)(A) and (B), concerning the

definition of "used directly" in relation to the compensating use tax exemption for certain machinery and equipment, are amended to read as follows:

(A)(i) Machinery and equipment used in actual production include machinery and equipment that meet all other applicable requirements and which cause a recognizable and measurable mechanical, chemical, electrical, or electronic action to take place as a necessary and integral part of manufacturing, the absence of which would cause the manufacturing operation to cease.

(ii) "Directly" does not mean that the machinery and equipment must come into direct physical contact with any of the materials that become necessary and integral parts of the finished product.

(iii) Machinery and equipment which handle raw, semifinished, or finished materials or property before research and development or the manufacturing process begins are not used directly in the manufacturing process.

(iv) Machinery and equipment which are necessary for purposes of storing the finished product are not used directly in the manufacturing process.

(v) Machinery and equipment used to transport or handle product while manufacturing is taking place are used directly;

(B) Further, machinery and equipment used directly in the manufacturing process includes without limitation the following:

(i) Molds, frames, cavities, and forms that determine the physical characteristics of the product or its packaging materials at any stage of the manufacturing process;

(ii) Dies, tools, and devices attached to or part of a unit of machinery that determine the physical characteristics of the product or its packaging material at any stage of the manufacturing process;

(iii) Testing equipment to measure the quality of the product at any stage of the manufacturing process;

(iv) Computers and related peripheral equipment that directly control or measure the manufacturing process; ~~and~~

(v) Machinery and equipment that produce steam, electricity, or chemical catalysts and solutions that are essential to the manufacturing process but which are consumed during the course of the

manufacturing process and do not become necessary and integral parts of the finished product; and

(vi) Machinery and equipment used in the research and development of new articles of commerce; and

SECTION 9. EFFECTIVE DATE. Sections 1-8 of this act are effective on the first day of the calendar quarter following the effective date of this act.