

First Extraordinary Session, 2005

SENATE BILL NO. 39

BY SENATORS MOUNT, MURRAY AND NEVERS

TAX EXEMPTIONS. Provides an immediate total state sales tax "exemption" until July 1, 2007 for manufacturing machinery and equipment, and their repair parts and services if they are for the repair or replacement of such machinery and equipment damaged or destroyed by the hurricanes. (gov sig)

AN ACT

To enact R.S. 47:305.54, relative to the sales and use tax of the state and political subdivisions whose boundaries are coterminous with those of the state; to provide that the state sales or use tax shall not apply to manufacturing machinery and equipment purchased, leased, or rented by manufacturers, or repair services or parts, for use in the repair or replacement of hurricane-damaged equipment; to provide for the applicability of certain definitions; to provide an effective date and termination date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:305.54 is hereby enacted to read as follows:

**§305.54. Exclusions and exemptions; manufacturing machinery and equipment**

**A.(1) Notwithstanding the provisions of R.S. 47:302(R), 321(H), and 331(P), the sales and use tax levied by the state and any political subdivision whose boundaries are coterminous with those of the state shall not apply to machinery and equipment purchased, leased, or rented and used by a manufacturer in a plant facility predominately and directly in the actual manufacturing for agricultural purposes or the actual manufacturing process**

1 of an item of tangible personal property, which is for ultimate sale to another  
2 and not for internal use, at one or more fixed locations within Louisiana, nor to  
3 repair parts or repair services for such machinery and equipment.

4 (2) The provisions of this Section shall be effective until July 1, 2007.

5 B. For purposes of this Section, “machinery and equipment,”  
6 “manufacturer,” “manufacturing,” “manufacturing for agricultural purposes,”  
7 “plant facility,” and “used directly” shall have the same meaning as defined in  
8 R.S. 47:301(3)(i)(ii).

9 C. This Section shall apply only to manufacturing machinery and  
10 equipment, or parts or services that will repair or replace such equipment  
11 damaged or destroyed by Hurricane Katrina or Hurricane Rita.

12 D.(1) No person or entity shall be entitled to purchase, use, lease, or rent  
13 machinery and equipment, repair parts or repair services without payment of  
14 the tax imposed by R.S. 47:302, 321, and 331 before submitting to the secretary  
15 of the Department of Revenue a signed and notarized application of the  
16 principal, partner, member, or officer certifying the following:

17 (a) Such person is a manufacturer as defined by R.S. 47:301(3)(i)(ii).

18 (b) The machinery and equipment, or parts or services are purchased,  
19 leased, or rented to replace manufacturing machinery and equipment lost or  
20 damaged by wind, water, fire, or criminal act as a result of conditions created  
21 by hurricanes Katrina and Rita.

22 (2) The secretary shall issue exemption certificates to qualified  
23 applicants. If a qualified applicant has purchased, used, leased or rented such  
24 machinery and equipment or such repair parts or repair services prior to the  
25 issuance of the exemption certificate, the secretary may issue a refund of the  
26 amount paid.

27 E. The secretary of the Department of Revenue may promulgate rules  
28 for the administration of the provisions of this Act in accordance with the  
29 Administrative Procedure Act.

1           Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Mount (SB 39)

Present law provides a sales tax "exclusion" for "manufacturing machinery and equipment" which is being phased-in in annual increments through June 30, 2010.

Proposed law provides an immediate total state sales tax "exemption" until July 1, 2007 for the purchase, lease, or rental of machinery and equipment, and for repair parts and repair services for such machinery and equipment, if the machinery and equipment:

1. Meet the same definitions as the "manufacturing machinery and equipment" in present law.
2. Are for the repair or replacement of such machinery and equipment damaged or destroyed by the hurricanes.

Requires obtaining a certificate of exemption from the Department of Revenue in order to obtain the exemption by a notarized application of an officer of the taxpayer certifying that he is a "manufacturer" that the MM&E or repair parts and services are repairing or replacing that lost or damaged by wind, water, fire, or criminal act as a result of conditions created by the hurricanes. Authorizes refunds to qualified applicants who have replaced or repaired prior to issuance of the certificate.

Specifically authorizes the department to promulgate rules in accordance with the APA.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:305.54)