

First Extraordinary Session, 2005

SENATE BILL NO. 87

BY SENATOR HOLLIS

TAX EXEMPTIONS. Provides a total state sales tax exemption to replacements of "hurricane damaged equipment." (gov sig)

AN ACT

To enact R.S. 47:305.54, relative to the state sales and use tax; to provide that the state sales or use tax shall not apply to certain manufacturing machinery and equipment; to provide an effective date and expiration date for the Act; 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 in hurricane areas

A.(1) Notwithstanding the provisions of R.S. 47:301(3)(i), (13)(k), and (28), 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 manufacturing machinery and equipment purchased, leased, or rented and used by a manufacturer in a plant facility, predominately and directly in actual manufacturing for agricultural purposes or in the actual manufacturing process of an item of tangible personal property which is for ultimate sale to another and not for internal use, at one or more fixed locations within the areas

1 provided for in this Section.

2 (2) The provisions of this Section shall be effective until July 1, 2010.

3 B.(1) For purposes of this Section, “machinery and equipment,”
4 “manufacturer,” “manufacturing,” “manufacturing for agricultural purposes,”
5 “plant facility,” and “used directly” shall have the same meaning as defined in
6 R.S. 47:301(3)(i)(ii).

7 (2) In addition to the definition provided for in R.S. 47:301(3)(i)(ii),
8 "manufacturer" shall also mean a manufacturer which had fifty percent or
9 more of its revenue derived in the state for the fiscal year closing immediately
10 prior to August 28, 2005 directly attributable to, or fifty percent or more of its
11 property and assets in the state prior to August 28, 2005 situated or used in, one
12 or more Hurricane Katrina or Hurricane Rita Federal Emergency Management
13 Agency Individual Assistance Areas.

14 C. (a) The exemption provided for in this Section shall apply to
15 replacements of hurricane damaged equipment.

16 (b) "Hurricane damaged equipment" means any manufacturing
17 machinery and equipment of a manufacturer to which R.S. 47:305.54(B)(2)
18 applies that is purchased for use in Hurricane Katrina or Hurricane Rita
19 Federal Emergency Management Agency Individual Assistance Areas.

20 D.(1) No person shall be entitled to purchase, use, lease, or rent
21 machinery or equipment without payment of the tax imposed by R.S. 47:302,
22 321, and 331 before receiving a certificate of exclusion from the secretary of the
23 Department of Revenue certifying that he is a manufacturer as defined herein.

24 (2) However, the tax paid on any purchase, lease, or rental made after
25 September 1, 2005, qualifying for the exemption provided for in this Section
26 may be refunded after receiving the certificate of exclusion from the secretary.

27 Section 2. The secretary of the Department of Revenue is authorized to promulgate
28 rules for the administration of the provisions of this Act in the manner provided for in the
29 Administrative Procedure Act.

1 Section 3. 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.

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

DIGEST

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 a total state sales tax exemption to replacements of "hurricane damaged equipment." "Hurricane damaged equipment" is defined as any manufacturing machinery and equipment of a manufacturer that is purchased for use in Hurricane Katrina or Hurricane Rita Federal Emergency Management Agency Individual Assistance Areas by a "manufacturer" which had 50% or more of its revenue derived in the state for the fiscal year closing immediately prior to August 28, 2005 directly attributable to, or 50% or more of its property and assets in the state situated or used in, one or more Hurricane Katrina or Hurricane Rita FEMA Individual Assistance Areas.

Requires obtaining a certificate of exclusion from the Department of Revenue in order to obtain the exemption and authorizes a refund for qualifying transactions after September 1, 2005.

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)