

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 256

5 By: Senator B. Johnson
6 By: Representative Beaty Jr.
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE SALES AND USE TAX EXEMPTION FOR
10 CERTAIN MACHINERY AND EQUIPMENT USED IN
11 MANUFACTURING; TO INCLUDE MACHINERY AND EQUIPMENT
12 USED IN RESEARCH AND DEVELOPMENT IN THE SALES AND USE
13 TAX EXEMPTION FOR CERTAIN MACHINERY AND EQUIPMENT
14 USED IN MANUFACTURING; AND FOR OTHER PURPOSES.
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Subtitle

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18 TO INCLUDE MACHINERY AND EQUIPMENT USED
19 IN RESEARCH AND DEVELOPMENT IN THE SALES
20 AND USE TAX EXEMPTION FOR CERTAIN
21 MACHINERY AND EQUIPMENT USED IN
22 MANUFACTURING.
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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)(1)(A), concerning the items
28 eligible for the sales tax exemption for certain machinery and equipment, is
29 amended to read as follows:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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