

First Extraordinary Session, 2005

HOUSE BILL NO. 39

BY REPRESENTATIVES HAMMETT, PINAC, ARNOLD, BALDONE, DARTEZ,  
FARRAR, FAUCHEUX, HEATON, HILL, KENNEY, LAMBERT,  
MONTGOMERY, SCALISE, JANE SMITH, AND TOWNSEND

TAX/SALES & USE: Exempts manufacturing machinery and equipment purchased to  
replace certain hurricane-damaged equipment (Item #15)

1 AN ACT

2 To enact R.S. 47:305.54, relative to the state sales and use tax; to provide that the state sales  
3 or use tax shall not apply to manufacturing machinery and equipment purchased,  
4 leased, or rented or repaired by manufacturers for use in the replacement of  
5 hurricane-damaged equipment; to provide for the applicability of certain definitions;  
6 to provide for an effective date and expiration date for the Act; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

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

10 §305.54. Exclusions and exemptions; manufacturing machinery and equipment

11 A. Notwithstanding the provisions of R.S. 47:302(R), 321(H), and 331(P)  
12 or any other provisions of law to the contrary, the sales and use tax levied by the  
13 state and any political subdivision whose boundaries are coterminous with those of  
14 the state shall not apply to machinery and equipment purchased, leased, or rented and  
15 used by a manufacturer in a plant facility predominately and directly in the actual  
16 manufacturing for agricultural purposes or the actual manufacturing process of an  
17 item of tangible personal property which is for ultimate sale to another and not for  
18 internal use at one or more fixed locations within Louisiana, nor to repair parts or  
19 repair services for such machinery and equipment.

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

5           C. This Section shall apply only to manufacturing machinery and equipment  
6           or parts or services that will repair, service, or replace equipment damaged or  
7           destroyed by Hurricane Katrina or Hurricane Rita which were uninsured or under  
8           insured.

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

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

15                   (2)(a) The machinery and equipment, or parts or services are purchased,  
16                   leased, or rented to replace or repair manufacturing machinery and equipment lost  
17                   or damaged by wind, water, fire, or criminal act as a result of conditions created by  
18                   Hurricanes Katrina and Rita.

19                   (b) The secretary shall issue exemption certificates to qualified applicants.  
20                   If a qualified applicant has purchased, used, leased, or rented machinery and  
21                   equipment or repair parts or repair services prior to the issuance of the exemption  
22                   certificate, the secretary is authorized to issue a refund for the amount paid.

23           E. The secretary of the Department of Revenue is authorized to promulgate  
24           rules for the administration of the provisions of this Section.

25           Section 2. This Act shall become effective upon signature by the governor or, if not  
26 signed by the governor, upon expiration of the time for acts to become effective without  
27 signature by the governor, as provided for by Article III, Section 18 of the Constitution of  
28 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act

1 shall become effective on the day following such approval. The provisions of this Act shall  
2 become null and void after June 30, 2007.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Hammett

HB No. 39

**Abstract:** Exempts manufacturing machinery and equipment purchased to replace hurricane-damaged equipment from the state sales and use tax.

Present law phases in an exclusion of a portion of the cost price (use tax) and sales price (sales tax) and lease or rental price of machinery and equipment used in a trade or business. Specifically the reduction is as follows:

| <u>Taxable Period</u>                                    | <u>Reduction of cost or sales price</u> |
|--|---|
| For the period beginning on 7/1/05 and ending on 6/30/06 | 19%                                     |
| For the period beginning on 7/1/06 and ending on 6/30/07 | 35%                                     |
| For the period beginning on 7/1/07 and ending on 6/30/08 | 44%                                     |
| For the period beginning on 7/1/08 and ending on 6/30/09 | 68%                                     |
| For the period beginning on 7/1/09 and ending on 6/30/10 | 82%                                     |
| For all taxable periods beginning on or after 7/1/10     | 100%                                    |

Proposed law provides a total state sales tax exemption through June 30, 2007, for replacement or repair of eligible manufacturing equipment and machinery damaged or destroyed by Hurricane Katrina or Rita which were uninsured or under insured.

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

(Adds R.S. 47:305.54)