

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, TOWNSEND, ALARIO, ALEXANDER, ANSARDI, BADON, BARROW, BEARD, BOWLER, BRUCE, BRUNEAU, BURNS, CAZAYOUX, CRAVINS, CROWE, CURTIS, DAMICO, DANIEL, DEWITT, DOERGE, DORSEY, DOVE, DOWNS, ERDEY, FANNIN, FRITH, GEYMANN, GLOVER, GREENE, E. GUILLORY, M. GUILLORY, HARRIS, HOPKINS, HUTTER, JACKSON, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAFLEUR, LANCASTER, MARTINY, MCDONALD, MCVEA, MORRISH, ODINET, PIERRE, PITRE, M. POWELL, T. POWELL, RITCHIE, ROBIDEAUX, SALTER, SCHNEIDER, GARY SMITH, JACK SMITH, JOHN SMITH, ST. GERMAIN, STRAIN, THOMPSON, TOOMY, TRAHAN, TUCKER, WADDELL, WALKER, WALSWORTH, WHITE, WINSTON, WOOTON, AND WRIGHT AND SENATORS HEITMEIER, HINES, AND MOUNT

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

1 the state shall not apply to machinery and equipment purchased, leased, or rented and
2 used by a manufacturer in a plant facility predominately and directly in the actual
3 manufacturing for agricultural purposes or the actual manufacturing process of an
4 item of tangible personal property which is for ultimate sale to another and not for
5 internal use at one or more fixed locations within Louisiana, nor to repair parts or
6 repair services for such machinery and equipment.

7 B. For purposes of this Section, "machinery and equipment",
8 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
9 facility", and "used directly" shall have the same meaning as defined in R.S.
10 47:301(3)(i)(ii).

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

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

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

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

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

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

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 acts to become effective without
 3 signature by the governor, as provided for by Article III, Section 18 of the Constitution of
 4 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act
 5 shall become effective on the day following such approval. The provisions of this Act shall
 6 become null and void after June 30, 2007.

DIGEST

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

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.

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

(Adds R.S. 47:305.54)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Removes provision that the eligible manufacturing equipment or machinery shall have been uninsured or under insured.