

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, MOUNT, ADLEY, AMEDEE, BAJOIE, BARHAM, BOASSO, BROOME, CAIN, CHAISSON, CHEEK, CRAVINS, DARDENNE, DUPLESSIS, ELLINGTON, FONTENOT, N. GAUTREAUX, HOLLIS, KOSTELKA, LENTINI, MALONE, MCPHERSON, MICHOT, MURRAY, NEVERS, QUINN, ROMERO, SCHEDLER, SHEPHERD, SMITH, THEUNISSEN, AND ULLO

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

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

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

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

12 D. 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 the tax  
14 imposed by R.S. 47:302, 321, and 331 before submitting to the secretary of the  
15 Department of Revenue a signed and notarized application of the principal, partner,  
16 member, or officer certifying the following:

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

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

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

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

28 Section 2. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for acts to become effective without  
30 signature by the governor, as provided for by Article III, Section 18 of the Constitution of

1 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
2 shall become effective on the day following such approval. The provisions of this Act shall  
3 become null and void after June 30, 2007.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_