

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 262

BY: LONG (Lewis)

AS INTRODUCED

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING 68

O.S. 1981, SECTION 1359, AS LAST AMENDED BY SECTION 3, CHAPTER 280, O.S.L. 1990 (68 O.S. SUPP. 1990, SECTION 1359), WHICH RELATES TO SALES TAX EXEMPTIONS; EXEMPTING CERTAIN CONTAINERS, LABELS, OTHER MATERIALS AND WRAPPING, PACKING AND PACKAGING SUPPLIES AND MATERIALS FROM SALES TAX; SPECIFYING TYPES OF MATERIALS INCLUDED IN AND EXCLUDED FROM CERTAIN TERM; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1981, Section 1359, as last amended by Section 3, Chapter 280, O.S.L. 1990 (68 O.S. Supp. 1990, Section 1359), is amended to read as follows:

Section 1359. Exemptions - Manufacturers.

There are hereby specifically exempted from the tax levied by this article:

(A) Goods, wares, merchandise, and property purchased for the purpose of being used or consumed in the process of manufacturing, compounding, processing, assembling, or preparing for sale a finished article and such goods, wares, merchandise, or property

become integral parts of the manufactured, compounded, processed, assembled, or prepared products or are consumed in the process of manufacturing, compounding, processing, assembling, or preparing products for resale. The term manufacturing plants shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(B) Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 529 of this title;

(C) Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased or equipment built on site and used by persons in the operation of manufacturing plants already established in Oklahoma. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property for sale or resale. The term manufacturing plants shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(D) Sales of containers ~~when~~ under the following circumstances:

1. When sold to a person regularly engaged in the business of reselling empty or filled containers ~~or when;~~

2. When purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor; or

3. When sold with contents which are otherwise exempt from the tax levied by this article, Section 1351 et seq. of this title.

This exemption shall not apply to ~~the sale of~~ deposits on any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person

who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. ~~And,~~ This exemption shall apply to the sale of labels or other materials delivered along with items sold if the purchaser affixes such label or other material to property to be resold or to nonreturnable containers if a new label is affixed to the container each time it is refilled. Provided, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

(E) Sales of or transfers of title to or possession of any containers used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

(F) Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state;

(G) Machinery, equipment, fuels and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of controlled industrial waste at treatment facilities specifically permitted pursuant to the Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of Title 63 of the Oklahoma Statutes, and operated at the place of waste generation, or facilities approved by the State Department of Health for the cleanup of a site of contamination. The term controlled industrial waste may include low-level radioactive waste for the purpose of this subsection;

(H) Sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For

purposes of this subsection, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this subsection, "qualified manufacturer" means any enterprise whose total cost of construction material for a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and the new facility or expanded facility adds at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, upon completion of the facility. For purposes of this section "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code, except that up to ten percent (10%) of the square feet of such building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made within twenty-four (24) months of the effective date of this act, Section 1351 et seq. of this title, shall be eligible for the exemption provided by this subsection;

(I) Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For

purposes of this subsection, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations; ~~and~~

(J) Sales of tangible personal property purchased or used by a licensed cable television operator in cablecasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cablecasting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this subsection, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations; and

(K) Sales of all internal and external wrapping, packing and packaging supplies and materials to any person for use in wrapping, packing or packaging any tangible personal property for resale; provided, such supplies and materials shall be taxable when sold, either directly or in conjunction with the furnishing of a service, to a final consumer. For purposes of this subsection, "wrapping, packing and packaging supplies" shall include, but not be limited to wrapping paper, wrapping twine, bags, cartons, crates, carting materials, tape, rope, labels, staples, glue, mailing tubes, excelsior, straw, cardboard covers, separators, shredded paper, cotton batting, shirt board, hay and lath. Wrapping, packing and packaging supplies shall not include returnable containers.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-592

CS