STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2390 By: Cotner

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 1359, as last amended by Section 11, Chapter 10, O.S.L. 1993 (68 O.S. Supp. 1993, Section 1359), which relates to sales tax exemptions for certain manufacturers; updating language; deleting reference to certain property manufactured in Oklahoma; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1359, as last amended by Section 11, Chapter 10, O.S.L. 1993 (68 O.S. Supp. 1993, 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)~~ 1. 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)~~ 2. 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)~~ 3. 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)~~ 4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of 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~~ Additionally, 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)~~ 5. Sales of or transfers of title to or possession of any containers, after June 30, 1987, used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain beverages defined by paragraphs 4 and 14 of Section 506 of Title 37 of the Oklahoma Statutes, or water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

~~(F)~~ 6. 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)~~ 7. 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 hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous 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 hazardous waste may include low-level radioactive waste for the purpose of this subsection;

~~(H)~~ 8. 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 in which at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility. Provided however, where the total cost of construction material for a new or expanded facility exceeds Ten Million Dollars ($10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this subsection exceeds the sum of Fifty Million Dollars ($50,000,000.00) the required number of new full-time-equivalent employees under this subsection shall be reduced to seventy-five (75) new employees. The employment requirement of this subsection can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility so long as both facilities are owned by one person or business entity. For purposes of this section "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless said retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility 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 after June 1, 1988, shall be eligible for the exemption provided by this subsection;

~~(I)~~ 9. 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;

~~(J)~~ 10. 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)~~ 11. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold

to a manufacturer of tangible personal property or producer of agricultural products. This exemption shall not apply to the sale of any packaging material which can be used more than once or which is ordinarily known as a returnable container.

SECTION 2. This act shall become effective September 1, 1994.

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