

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 3688
Version:	INT
Request Number:	8495
Author:	Rep. McDugle
Date:	2/21/2022
Impact:	Tax Commission:

Revenue Decrease
FY-23: (\$5,812,000)
FY-24: (\$1,885,000)

Research Analysis

HB3688, as introduced, expands the definition of manufacturing and the manufacturing sales tax exemption to any manufacturer that is engaged in custom-order manufacturing. The exemption for a custom-order manufacturer is limited to those who meet the criteria of a North American Industry Classification System, [Section 32](#) or [33](#) manufacturer.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

The measure proposes to amend Sections 1352 & 1359 of Title 68 to modify and expand the definition of “manufacturing” to include the manufacturing, compounding, processing or fabrication of materials into articles of tangible personal property according to the special order of a customer (custom order manufacturing) by manufacturers classified as operating in the North American Industry Classification System (NAICS) Sectors 32 and 33, but does not include custom order manufacturing by manufacturers classified in other NAICS code sectors.

Based on Tax Commission records, as of January, 2022, 4,044 entities currently hold Manufacturer Sales Exemption Permits (MSEP). According to the FY 20 Tax Expenditure Report sales and use taxes of \$2,117,585,000² are attributable to the exemption afforded manufacturers. Dividing the 4,044 permit holders by the total sales and use tax exemption, yields an estimated exemption amount per permit holder of \$523,636 in exempt state sales/use taxes. In addition, OTC estimates indicate that a total of 88 applicants were denied an Oklahoma Manufacturers Sales Tax Exemption Permit (MSEP) from July 1, 2019 through January 2022 because their manufacturing operation was deemed to be “custom”. For purposes of this impact it is assumed that an additional 16 applicants engaged in custom manufacturing will be denied from February 2022 to November 1, 2022 and that another 7 “custom” applicants from previous years will re-apply resulting in a minimum of 111 entities that will be issued an MSEP between the effective date of the measure and the end of FY 23. It is also projected that the average exempt sales/use tax exemption amount per “custom manufacturer” is less than that of current manufacturers and, as such, is assumed to be 10% or \$52,363 (\$523,636 X 10% = \$52,363). Multiplying 111 “custom” manufacturers by the average \$52,363 in annual exempt state sales/use taxes per “custom manufacturer” results in an estimated decrease of \$5,812,293 in state sales and use tax revenues FY 23. Assuming another 36 applicants apply and are approved in FY 23, results in an estimated decrease of \$1,885,068 for FY 24 (36 X 52,363).

In addition, the issuance of the permit would make the entities eligible for the investment/new jobs income tax credit³.

² \$6,312,000 in state use taxes and \$2,111,273,000 in state sales taxes.

³ 68 O.S. § 2357.4

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Other Considerations

None.

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