

By: Nelson

S.B. No. 793

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the application of the sales and use tax to  
3 biotechnology cleanrooms and equipment.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 151.318, Tax Code, is amended by  
6 amending Subsections (b) and (s) and adding Subsection (q-1) to  
7 read as follows:

8 (b) The exemption includes:

9 (1) chemicals, catalysts, and other materials that are  
10 used during a manufacturing, processing, or fabrication operation  
11 to produce or induce a chemical or physical change, to remove  
12 impurities, or to make the product more marketable; ~~and~~

13 (2) semiconductor fabrication cleanrooms and  
14 equipment; and

15 (3) biotechnology cleanrooms and equipment, including  
16 pharmaceutical cleanrooms and equipment.

17 (q-1) For purposes of Subsection (b), "biotechnology  
18 cleanrooms and equipment" means all tangible personal property,  
19 without regard to whether the property is affixed to or  
20 incorporated into realty, used in connection with the  
21 manufacturing, processing, or fabrication in a cleanroom  
22 environment of a biotechnology product, without regard to whether  
23 the property is actually contained in the cleanroom environment.  
24 The term includes integrated systems, fixtures, and piping, all

1 property necessary or adapted to reduce contamination or to control  
2 airflow, temperature, humidity, chemical purity, or other  
3 environmental conditions or manufacturing tolerances, and  
4 production equipment and machinery. The term does not include the  
5 building or a permanent, nonremovable component of the building  
6 that houses the cleanroom environment. The term includes moveable  
7 cleanroom partitions and cleanroom lighting. "Biotechnology  
8 cleanrooms and equipment" are not "intraplant transportation  
9 equipment" as that term is used in Subsection (c)(1).

10 (s) The following do not apply to the semiconductor  
11 fabrication cleanrooms and equipment in Subsection (q) or the  
12 biotechnology cleanrooms and equipment in Subsection (q-1):

13 (1) limitations in Subsection (a)(2) that refer to  
14 tangible personal property directly causing chemical and physical  
15 changes to the product being manufactured, processed, or fabricated  
16 for ultimate sale;

17 (2) Subsection (c)(1); and

18 (3) Subsection (c)(4).

19 SECTION 2. Section 313.021(2), Tax Code, is amended to read  
20 as follows:

21 (2) "Qualified property" means:

22 (A) land:

23 (i) that is located in an area designated as  
24 a reinvestment zone under Chapter 311 or 312 or as an enterprise  
25 zone under Chapter 2303, Government Code;

26 (ii) on which a person proposes to  
27 construct a new building or erect or affix a new improvement that

1 does not exist before the date the owner applies for a limitation on  
2 appraised value under this subchapter;

3 (iii) that is not subject to a tax abatement  
4 agreement entered into by a school district under Chapter 312; and

5 (iv) on which, in connection with the new  
6 building or new improvement described by Subparagraph (ii), the  
7 owner of the land proposes to:

8 (a) make a qualified investment in an  
9 amount equal to at least the minimum amount required by Section  
10 313.023; and

11 (b) create at least 25 new jobs;

12 (B) the new building or other new improvement  
13 described by Paragraph (A)(ii); and

14 (C) tangible personal property that:

15 (i) is not subject to a tax abatement  
16 agreement entered into by a school district under Chapter 312; and

17 (ii) except for new equipment described in  
18 Section 151.318(q) or (q-1), is first placed in service in the new  
19 building or in or on the new improvement described by Paragraph  
20 (A)(ii), or on the land on which that new building or new  
21 improvement is located, if the personal property is ancillary and  
22 necessary to the business conducted in that new building or in or on  
23 that new improvement.

24 SECTION 3. (a) This Act takes effect July 1, 2003, if it  
25 receives a vote of two-thirds of all the members elected to each  
26 house, as provided by Section 39, Article III, Texas Constitution.  
27 If this Act does not receive the vote necessary for effect on that

1 date, this Act takes effect September 1, 2003.

2 (b) The change in law made by this Act does not affect taxes  
3 imposed before the effective date of this Act, and the former law is  
4 continued in effect for purposes of the liability for and  
5 collection of those taxes.