

By: Hartnett

H.B. No. 2317

A BILL TO BE ENTITLED

1 AN ACT

2 relating to exempting property used or consumed by a manufacturer
3 in certain research and development activities from the sales and
4 use tax.

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

6 SECTION 1. Sections 151.318(a) and (c), Tax Code, are
7 amended to read as follows:

8 (a) The following items are exempted from the taxes imposed
9 by this chapter if sold, leased, or rented to, or stored, used, or
10 consumed by a manufacturer:

11 (1) tangible personal property that will become an
12 ingredient or component part of tangible personal property
13 manufactured, processed, or fabricated for ultimate sale;

14 (2) tangible personal property directly used or
15 consumed in or during the actual manufacturing, processing, or
16 fabrication of tangible personal property for ultimate sale if the
17 use or consumption of the property is necessary or essential to the
18 manufacturing, processing, or fabrication operation and directly
19 makes or causes a chemical or physical change to:

20 (A) the product being manufactured, processed,
21 or fabricated for ultimate sale; or

22 (B) any intermediate or preliminary product that
23 will become an ingredient or component part of the product being
24 manufactured, processed, or fabricated for ultimate sale;

1 (3) services performed directly on the product being
2 manufactured prior to its distribution for sale and for the purpose
3 of making the product more marketable;

4 (4) actuators, steam production equipment and its
5 fuel, in-process flow through tanks, cooling towers, generators,
6 heat exchangers, transformers and the switches, breakers,
7 capacitor banks, regulators, relays, reclosers, fuses,
8 interruptors, reactors, arrestors, resistors, insulators,
9 instrument transformers, and telemetry units that are related to
10 the transformers, electronic control room equipment, computerized
11 control units, pumps, compressors, and hydraulic units, that are
12 used to power, supply, support, or control equipment that qualifies
13 for exemption under Subdivision (2) or (5) or to generate
14 electricity, chilled water, or steam for ultimate sale;
15 transformers located at an electric generating facility that
16 increase the voltage of electricity generated for ultimate sale,
17 the electrical cable that carries the electricity from the electric
18 generating equipment to the step-up transformers, and the switches,
19 breakers, capacitor banks, regulators, relays, reclosers, fuses,
20 interruptors, reactors, arrestors, resistors, insulators,
21 instrument transformers, and telemetry units that are related to
22 the step-up transformers; and transformers that decrease the
23 voltage of electricity generated for ultimate sale and the
24 switches, breakers, capacitor banks, regulators, relays,
25 reclosers, fuses, interruptors, reactors, arrestors, resistors,
26 insulators, instrument transformers, and telemetry units that are
27 related to the step-down transformers;

1 (5) tangible personal property used or consumed in the
2 actual manufacturing, processing, or fabrication of tangible
3 personal property for ultimate sale if the use or consumption of the
4 property is necessary and essential to a pollution control process;

5 (6) lubricants, chemicals, chemical compounds, gases,
6 or liquids that are used or consumed during the actual
7 manufacturing, processing, or fabrication of tangible personal
8 property for ultimate sale if their use or consumption is necessary
9 and essential to prevent the decline, failure, lapse, or
10 deterioration of equipment exempted by this section;

11 (7) gases used on the premises of a manufacturing
12 plant to prevent contamination of raw material or product, or to
13 prevent a fire, explosion, or other hazardous or environmentally
14 damaging situation at any stage in the manufacturing process or in
15 loading or storage of the product or raw material on premises;

16 (8) tangible personal property used or consumed during
17 the actual manufacturing, processing, or fabrication of tangible
18 personal property for ultimate sale if the use or consumption of the
19 property is necessary and essential to a quality control process
20 that tests tangible personal property that is being manufactured,
21 processed, or fabricated for ultimate sale;

22 (9) safety apparel or work clothing that is used
23 during the actual manufacturing, processing, or fabrication of
24 tangible personal property for ultimate sale if:

25 (A) the manufacturing process would not be
26 possible without the use of the apparel or clothing; and

27 (B) the apparel or clothing is not resold to the

1 employee;

2 (10) tangible personal property used or consumed in
3 the actual manufacturing, processing, or fabrication of tangible
4 personal property for ultimate sale if the use or consumption of the
5 property is necessary and essential to comply with federal, state,
6 or local laws or rules that establish requirements related to
7 public health; ~~and~~

8 (11) tangible personal property specifically
9 installed to:

10 (A) reduce water use and wastewater flow volumes
11 from the manufacturing, processing, fabrication, or repair
12 operation;

13 (B) reuse and recycle wastewater streams
14 generated within the manufacturing, processing, fabrication, or
15 repair operation; or

16 (C) treat wastewater from another industrial or
17 municipal source for the purpose of replacing existing freshwater
18 sources in the manufacturing, processing, fabrication, or repair
19 operation; and

20 (12) tangible personal property, including machinery,
21 equipment, and replacement parts, used or consumed in the research
22 or development of inventions, products, processes, or
23 technologies, without regard to whether the tangible personal
24 property:

25 (A) is consumed in the actual manufacturing,
26 processing, or fabrication of tangible personal property for
27 ultimate sale; or

1 (B) directly makes or causes a chemical or
2 physical change.

3 (c) The exemption does not include:

4 (1) intraplant transportation equipment, including
5 intraplant transportation equipment used to move a product or raw
6 material in connection with the manufacturing process and
7 specifically including all piping and conveyor systems, provided
8 that the following remain eligible for the exemption:

9 (A) piping or conveyor systems that are a
10 component part of a single item of manufacturing equipment or
11 pollution control equipment eligible for the exemption under
12 Subsection (a)(2), (a)(4), or (a)(5);

13 (B) piping through which the product or an
14 intermediate or preliminary product that will become an ingredient
15 or component part of the product is recycled or circulated in a loop
16 between the single item of manufacturing equipment and the
17 ancillary equipment that supports only that single item of
18 manufacturing equipment if the single item of manufacturing
19 equipment and the ancillary equipment operate together to perform a
20 specific step in the manufacturing process; and

21 (C) piping through which the product or an
22 intermediate or preliminary product that will become an ingredient
23 or component part of the product is recycled back to another single
24 item of manufacturing equipment and its ancillary equipment in the
25 same manufacturing process;

26 (2) hand tools;

27 (3) maintenance supplies not otherwise exempted under

1 this section, maintenance equipment, janitorial supplies or
2 equipment, office equipment or supplies, equipment or supplies used
3 in sales or distribution activities, [~~research or development of~~
4 ~~new products,~~] or transportation activities;

5 (4) machinery and equipment or supplies to the extent
6 not otherwise exempted under this section used to maintain or store
7 tangible personal property; or

8 (5) tangible personal property used in the
9 transmission or distribution of electricity, including
10 transformers, cable, switches, breakers, capacitor banks,
11 regulators, relays, reclosers, fuses, interruptors, reactors,
12 arrestors, resistors, insulators, instrument transformers, and
13 telemetry units not otherwise exempted under this section, and
14 lines, conduit, towers, and poles.

15 SECTION 2. The change in law made by this Act does not
16 affect taxes imposed before the effective date of this Act, and the
17 law in effect before the effective date of this Act is continued in
18 effect for purposes of the liability for and collection of those
19 taxes.

20 SECTION 3. This Act takes effect July 1, 2007, if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for effect on that
24 date, this Act takes effect October 1, 2007.