

FILED MAR 2 1978

SENATE FILE 2173

By COMMITTEE ON WAYS AND MEANS

Passed Senate, Date 3-16-78 (p. 589) Passed House, Date _____
Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for exemption certificates for exempt pur-
2 chases under the sales tax law and assigning responsibility
3 for the tax on nonexempt purchases subject to penalties
4 provided by law.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2173

S-5368

1 Amend Senate File 2173 as follows:
2 1. Page 1, by striking line 4 and inserting
3 in lieu thereof the following:
4 "NEW SUBSECTION. The department shall issue
5 exemption certificates in such form as the director
6 may require to assist retailers in properly accounting
7 for non-taxable sales of tangible personal property
8 or services to buyers for purposes of resale or for
9 processing.
10 The sales tax liability for all sales".
11 2. Page 1, line 8 by adding after the word
12 "purchase" the words "is for resale and for processing
13 and".

S-5368 FILED Adopted 3/16 (p. 589) BY KEVIN KELLY
March 14, 1978

1 Section 1. Section four hundred twenty-two point forty-
2 seven (422.47), Code 1977, is amended by adding the following
3 new subsection:

4 NEW SUBSECTION. The sales tax liability for all sales
5 of tangible personal property and all sales of services shall
6 be upon the seller unless the seller takes in good faith from
7 the purchaser a valid exemption certificate stating under
8 penalties for perjury that the purchase is not a retail sale
9 as defined in section four hundred twenty-two point forty-
10 two (422.42), subsection three (3), of the Code. Where the
11 tangible personal property or services are purchased tax free
12 pursuant to a valid exemption certificate which is taken in
13 good faith by the seller, and the tangible personal property
14 or services are used or disposed of by the purchaser in a
15 nonexempt manner, the purchaser shall be solely liable for
16 the taxes and shall remit said taxes directly to the department
17 and sections four hundred twenty-two point fifty (422.50),
18 four hundred twenty-two point fifty-one (422.51), four hundred
19 twenty-two point fifty-two (422.52), four hundred twenty-two
20 point fifty-four (422.54), four hundred twenty-two point
21 fifty-five (422.55), four hundred twenty-two point fifty-six
22 (422.56), four hundred twenty-two point fifty-seven (422.57),
23 four hundred twenty-two point fifty-eight (422.58), and four
24 hundred twenty-two point fifty-nine (422.59) of the Code shall
25 apply to such purchaser.

26 a. A valid exemption certificate is an exemption certifi-
27 cate as required and supplied by the department, which is
28 complete and correct according to the requirements of the
29 director.

30 b. A valid exemption certificate is taken in good faith
31 by the seller when the seller has exercised that caution and
32 diligence which honest persons of ordinary prudence would
33 exercise in handling their own business affairs, and includes
34 an honesty of intention and freedom from knowledge of
35 circumstances which ought to put one upon inquiry as to the

1 true facts. In order for a seller to take a valid exemption
2 certificate in good faith, he or she must exercise reasonable
3 prudence to determine the facts supporting the valid exemption
4 certificate, and if any facts upon such certificate would
5 lead a reasonable person to further inquiry, then such inquiry
6 must be made with an honest intent to discover the true facts.

7 Sec. 2. This Act is effective January 1, 1979.

8 EXPLANATION

9 The bill provides that persons purchasing tangible personal
10 property or services which are exempt from the sales tax shall
11 do so subject to an exemption certificate issued by the depart-
12 ment of revenue.

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S-5369

1 Amend Senate File 2173 as follows:

2 1. Page 1, by inserting before line 1 the following
3 new section:

4 "Section 1. Section four hundred twenty-two point
5 forty-two (422.42), subsection three (3), unnumbered
6 paragraph one (1), Code 1977, is amended to read as
7 follows:

8 "Retail sale" or "sale at retail" means the sale
9 to a consumer or to any person for any purpose, other
10 than for processing or for resale of tangible personal
11 property or taxable services, or for resale of tangible
12 personal property in connection with taxable services,
13 and the sale of gas, electricity, water, and
14 communication service to retail consumers or users,
15 but does not include commercial fertilizer or
16 agricultural limestone or materials, but not tools
17 or equipment, which are to be used in disease control,
18 weed control, insect control or health promotion of
19 plants or livestock produced as part of agricultural
20 production for market, or electricity or steam or
21 any taxable service when purchased and used in the
22 processing of tangible personal property intended
23 to be sold ultimately at retail. Tangible personal
24 property is sold for processing within the meaning
25 of this subsection only when it is intended that such
26 property shall by means of fabrication, compounding,
27 manufacturing, or germination become an integral part
28 of other tangible personal property intended to be
29 sold ultimately at retail, or shall be consumed as
30 fuel in creating heat, power, or steam for processing
31 including grain drying or for generating electric
32 current, or consumed in implements of husbandry engaged
33 in agricultural production, or such property is a
34 chemical, solvent, sorbent, or reagent, which is
35 directly used and is consumed, dissipated, or depleted,
36 in processing personal property which is intended
37 to be sold ultimately at retail, and which may not
38 become a component or integral part of the finished
39 product. The distribution to the public of free
40 newspapers or shoppers guides shall be deemed a retail
41 sale for purposes of the processing exemption.

42 Sec. 2. Section four hundred twenty-two point
43 forty-five (422.45), Code 1977, is amended by adding
44 the following new subsection:

45 NEW SUBSECTION. Tangible personal property consumed
46 by a retailer in the performance of a taxable service."

47 2. Renumber sections and correct internal
48 references as are necessary in accordance with this
49 amendment.

50 3. Amend the title, line 1, by inserting after

S-5369

Page 2

1 the word "Act" the words "relating to the sales tax
2 by providing a redefinition of sales at retail,
3 exempting certain tangible personal property consumed
4 by a retailer from the sales tax, and".
5

S-5369 FILED - *Not germane 3/16* BY NORMAN RODGERS
MARCH 15, 1978 (*p. 588*)

SENATE FILE 2173
FISCAL NOTE

Date: March 15, 1978
Requested by: Senator Hutchins

In compliance with a written request received March 13, 19 78, there is hereby submitted a Fiscal Note for S.F.2173 Amend.S-5369 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

This amendment would extend the exemption from sales tax, the publication of newspapers or shoppers' guides which are distributed free.

The effect of the expansion of the exemption proposed under the proposal would depend partly upon the number of publications involved and the volume of purchases of items which would be eligible for the processing exemption. Because a reliable estimate of the amount of materials involved is not readily available, determination of the value of the materials which would be made exempt from taxation cannot be made. Thus, an estimate of the sales tax which would not be collected because of the exemption cannot be calculated.

As the amendment pertains to taxable services, the Department of Revenue can make no estimate.

FILED
MARCH 15, 1978

Gerry Rankin-Fiscal Director
Legislative Fiscal Bureau

Ways and Means 3/22 Amended per 6208, D. P. 4/21 (p. 1773)

Senate File 2173

Ways and Means: Dieleman, Chair; Pavich, Dunton, Junker, Harbor, Horn and Harvey.

SENATE FILE 2173

BY COMMITTEE ON WAYS AND MEANS

(AS AMENDED AND PASSED BY THE SENATE MARCH 16, 1978)

Passed Senate, Date 3-1-78 (p. 1134) Passed House, Date 4-27-78 (p. 1923)

Vote: Ayes 40 Nays 0 Vote: Ayes 81 Nays 0

Approved _____

A BILL FOR

1 An Act providing for exemption certificates for exempt pur-
 2 chases under the sales tax law and assigning responsibility
 3 for the tax on nonexempt purchases subject to penalties
 4 provided by law.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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_____ = New Language
by the Senate

6306 >
1 Section 1. Section four hundred twenty-two point forty-
2 seven (422.47), Code 1977, is amended by adding the following
3 new subsection:

4 NEW SUBSECTION. The department shall issue exemption
5 certificates in such form as the director may require to
6 assist retailers in properly accounting for non-taxable sales
7 of tangible personal property or services to buyers for
8 purposes of resale or for processing.

9 The sales tax liability for all sales of tangible personal
10 property and all sales of services shall be upon the seller
11 unless the seller takes in good faith from the purchaser a
12 valid exemption certificate stating under penalties for perjury
6208-13 that the purchase is for resale and for processing and is
14 not a retail sale as defined in section four hundred twenty-
15 two point forty-two (422.42), subsection three (3), of the
16 Code. Where the tangible personal property or services are
17 purchased tax free pursuant to a valid exemption certificate
18 which is taken in good faith by the seller, and the tangible
19 personal property or services are used or disposed of by the
20 purchaser in a nonexempt manner, the purchaser shall be solely
21 liable for the taxes and shall remit said taxes directly to
22 the department and sections four hundred twenty-two point
23 fifty (422.50), four hundred twenty-two point fifty-one
24 (422.51), four hundred twenty-two point fifty-two (422.52),
25 four hundred twenty-two point fifty-four (422.54), four hundred
26 twenty-two point fifty-five (422.55), four hundred twenty-
27 two point fifty-six (422.56), four hundred twenty-two point
28 fifty-seven (422.57), four hundred twenty-two point fifty-
29 eight (422.58), and four hundred twenty-two point fifty-nine
30 (422.59) of the Code shall apply to such purchaser.

31 a. A valid exemption certificate is an exemption certifi-
32 cate as required and supplied by the department, which is
33 complete and correct according to the requirements of the
34 director.

35 b. A valid exemption certificate is taken in good faith

1 by the seller when the seller has exercised that caution and
 2 diligence which honest persons of ordinary prudence would
 3 exercise in handling their own business affairs, and includes
 4 an honesty of intention and freedom from knowledge of
 5 circumstances which ought to put one upon inquiry as to the
 6 true facts. In order for a seller to take a valid exemption
 7 certificate in good faith, he or she must exercise reasonable
 8 prudence to determine the facts supporting the valid exemption
 9 certificate, and if any facts upon such certificate would
 10 lead a reasonable person to further inquiry, then such inquiry
 11 must be made with an honest intent to discover the true facts.

C206 -

C208 -
6327

12 Sec. 2. This Act is effective January 1, 1979.

13 EXPLANATION

14 The bill provides that persons purchasing tangible personal
 15 property or services which are exempt from the sales tax shall
 16 do so subject to an exemption certificate issued by the depart-
 17 ment of revenue.

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 FISCAL NOTE
 SENATE FILE 2173
 Requested by Representative Norland
 April 25, 1978

In compliance with a written request, there is submitted a Fiscal Note for S.F. 2173, pursuant to Joint Rule 16:

Senate File 2173, An Act providing for exemption certificates for exempt purchases under the sales tax law and assigning responsibility for the tax on nonexempt purchases subject to penalties provided by law.

Senate File 2173 as passed by the Senate and reprinted would have no effect on state revenues.

Source: Department of Revenue
 MAY 1, 1978 GERRY D. RANKIN
 FILED LEGISLATIVE FISCAL BUREAU

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SF 2173
bk/slc/26C

SENATE FILE 2173

H-6363

- 1 Amend amendment H-6326, To Senate File 2173, as
- 2 passed by the Senate and reprinted, as follows:
- 3 1. Page 1, line 10, by inserting after the word
- 4 "sales" the words "of a nonrecurring nature".
- 5 2. Page 1, line 11, by striking the words "of a
- 6 nonrecurring nature".

H-6363 FILED, ADOPTED BY THOMPSON of Polk
BY UNANIMOUS CONSENT
APRIL 27, 1978 (p. 1921)

SENATE FILE 2173

H-6364

- 1 Amend amendment H-6326, to Senate File 2173, as
- 2 passed by the Senate and reprinted, as follows:
- 3 1. Page 1, line 14, by striking the word "taxes"
- 4 and inserting in lieu thereof the word "taxed".

H-6364 FILED, ADOPTED BY NORLAND of Worth
BY UNANIMOUS CONSENT
APRIL 27, 1978 (p. 1922)

SENATE FILE 2173

H-6366

- 1 Amend Senate File 2173, as passed by the Senate
- 2 and reprinted, as follows:
- 3 1. Title page, line 2, by inserting after the
- 4 word "law" the words ", relating to casual sales".

H-6366 FILED, ADOPTED BY DIELEMAN of Marion
BY UNANIMOUS CONSENT
APRIL 27, 1978 (p. 1922)

SENATE FILE 2173

H-6208

- 1 Amend Senate File 2173, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 13, by striking the words "and
- 4 for" and inserting in lieu thereof the words "or
- 5 for".
- 6 2. Page 2, line 6, by striking the word "true".
- 7 3. Page 2, line 11, by striking the word "true".

H-6208 FILED *Adopted* BY COMMITTEE ON WAYS AND MEANS
 APRIL 24, 1978 *4/27 (p. 1922)* NORLAND of Worth, Chair

SENATE FILE 2173

H-6326

- 1 Amend Senate File 2173 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 1, by inserting before line 1 the follow-
- 4 ing:
- 5 "Section 1. Section four hundred twenty-two point
- 6 forty-two (422.42), Code 1977, is amended by striking
- 7 subsection twelve (12) and inserting in lieu thereof
- 8 the following:
- 9 12. "Casual sales" means:
- 10 a. Sales of tangible personal property by the
- 11 owner of a nonrecurring nature, if the seller, at
- 12 the time of the sale, is not engaged for profit in
- 13 the business of selling tangible personal property
- 14 or services taxes under section four hundred twenty-
- 15 two point forty-three (422.43) of the Code.
- 16 b. The sale of all or substantially all of the
- 17 tangible personal property held or used by a retailer
- 18 in the course of the retailer's trade or business
- 19 for which the retailer is required to hold a sales
- 20 tax permit when the retailer sells or otherwise
- 21 transfers the trade or business to another person
- 22 who shall engage in a similar trade or business."
- 23 2. By renumbering the sections to conform with
- 24 this amendment.

H-6326 FILED *Adopted* BY DIELEMAN of Marion
 APRIL 25, 1978 *4/27 (p. 1922)*

SENATE FILE 2173

H-6327

- 1 Amend Senate File 2173 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 2, by inserting after line 11 the follow-
- 4 ing:
- 5 "c. The certificate shall state that there is
- 6 no penalty for perjury if the purchaser has completed
- 7 the certificate in good faith based upon the facts
- 8 known at the time of its completion. If the
- 9 circumstances should change and the tangible personal
- 10 property or services are used or disposed of by the
- 11 purchaser in a nonexempt manner, the purchaser shall
- 12 be liable solely for the taxes and shall remit said
- 13 taxes directly to the department in accordance with
- 14 this subsection."
- 15 2. By renumbering the sections to conform with
- 16 this amendment.

H-6327 FILED *Adopted 4/27* BY DIELEMAN of Marion
 APRIL 25, 1978 *(p. 1922)* WEST of Marshall

HOUSE AMENDMENT TO SENATE FILE 2173

S-5709

1 Amend Senate File 2173, as passed by the Senate
2 and reprinted, as follows:

3 1. Page 1, by inserting before line 1 the follow-
4 ing:

5 "Section 1. Section four hundred twenty-two point
6 forty-two (422.42), Code 1977, is amended by striking
7 subsection twelve (12) and inserting in lieu thereof
8 the following:

9 12. "Casual sales" means:

10 a. Sales of a nonrecurring nature of tangible
11 personal property by the owner, if the seller, at
12 the time of the sale, is not engaged for profit in
13 the business of selling tangible personal property
14 or services taxed under section four hundred twenty-
15 two point forty-three (422.43) of the Code.

16 b. The sale of all or substantially all of the
17 tangible personal property held or used by a retailer
18 in the course of the retailer's trade or business
19 for which the retailer is required to hold a sales
20 tax permit when the retailer sells or otherwise
21 transfers the trade or business to another person
22 who shall engage in a similar trade or business."

23 2. Page 1, line 13, by striking the words "and
24 for" and inserting in lieu thereof the words "or for".

25 3. Page 2, line 6, by striking the word "true".

26 4. Page 2, line 11, by striking the word "true".

27 5. Page 2, by inserting after line 11 the follow-
28 ing:

29 "c. The certificate shall state that there is
30 no penalty for perjury if the purchaser has completed
31 the certificate in good faith based upon the facts
32 known at the time of its completion. If the
33 circumstances should change and the tangible personal
34 property or services are used or disposed of by the
35 purchaser in a nonexempt manner, the purchaser shall
36 be liable solely for the taxes and shall remit said
37 taxes directly to the department in accordance with
38 this subsection."

39 6. Renumbering the sections to conform with this
40 amendment.

41 7. Title page, line 2, by inserting after the
42 word "law" the words ", relating to casual sales".

S-5709 FILED
APRIL 27, 1978

RECEIVED FROM THE HOUSE

Senate concurred 5/1 (p. 1134)

SENATE FILE 2173

AN ACT

PROVIDING FOR EXEMPTION CERTIFICATES FOR EXEMPT PURCHASES UNDER THE SALES TAX LAW, RELATING TO CASUAL SALES AND ASSIGNING RESPONSIBILITY FOR THE TAX ON NONEXEMPT PURCHASES SUBJECT TO PENALTIES PROVIDED BY LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section four hundred twenty-two point forty-two (422.42), Code 1977, is amended by striking subsection twelve (12) and inserting in lieu thereof the following:

12. "Casual sales" means:

a. Sales of a nonrecurring nature of tangible personal property by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section four hundred twenty-two point forty-three (422.43) of the Code.

b. The sale of all or substantially all of the tangible personal property held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 2. Section four hundred twenty-two point forty-seven (422.47), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The department shall issue exemption certificates in such form as the director may require to assist retailers in properly accounting for non-taxable sales of tangible personal property or services to buyers for purposes of resale or for processing.

The sales tax liability for all sales of tangible personal property and all sales of services shall be upon the seller

unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section four hundred twenty-two point forty-two (422.42), subsection three (3), of the Code. Where the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall be solely liable for the taxes and shall remit said taxes directly to the department and sections four hundred twenty-two point fifty (422.50), four hundred twenty-two point fifty-one (422.51), four hundred twenty-two point fifty-two (422.52), four hundred twenty-two point fifty-four (422.54), four hundred twenty-two point fifty-five (422.55), four hundred twenty-two point fifty-six (422.56), four hundred twenty-two point fifty-seven (422.57), four hundred twenty-two point fifty-eight (422.58), and four hundred twenty-two point fifty-nine (422.59) of the Code shall apply to such purchaser.

a. A valid exemption certificate is an exemption certificate as required and supplied by the department, which is complete and correct according to the requirements of the director.

b. A valid exemption certificate is taken in good faith by the seller when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. In order for a seller to take a valid exemption certificate in good faith, he or she must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry

must be made with an honest intent to discover the facts.

c. The certificate shall state that there is no penalty for perjury if the purchaser has completed the certificate in good faith based upon the facts known at the time of its completion. If the circumstances should change and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall be liable solely for the taxes and shall remit said taxes directly to the department in accordance with this subsection.

Sec. 3. This Act is effective January 1, 1979.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2173, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved May 10, 1978

ROBERT D. RAY
Governor