

House Study Bill 58

Conference Committee Text

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1 1 Section 1. Section [422.42](#), Code 1995, is amended by adding
1 2 the following new subsections and renumbering current
1 3 subsections as necessary:

1 4 NEW SUBSECTION. 1. "Agricultural production" includes the
1 5 production of flowering, ornamental, or vegetable plants in
1 6 commercial greenhouses or otherwise. "Agricultural products"
1 7 include flowering, ornamental, or vegetable plants.

1 8 NEW SUBSECTION. 2A. "Farm machinery and equipment" means
1 9 machinery and equipment used in agricultural production.

1 10 Sec. 2. Section [422.42](#), subsection 11, Code 1995, is
1 11 amended to read as follows:

1 12 11. "Retail sale" or "sale at retail" means the sale to a
1 13 consumer or to any person for any purpose, other than for
1 14 processing, for resale of tangible personal property or
1 15 taxable services, or for resale of tangible personal property
1 16 in connection with taxable services; and includes the sale of
1 17 gas, electricity, water, and communication service to retail
1 18 consumers or users; but does not include agricultural breeding
1 19 livestock and domesticated fowl; and does not include
1 20 commercial fertilizer, agricultural limestone, herbicide,
1 21 pesticide, insecticide, food, medication, or agricultural
1 22 drain tile, including installation of agricultural drain tile,
1 23 any of which are to be used in disease control, weed control,
1 24 insect control, or health promotion of plants or livestock
1 25 produced as part of agricultural production for market; and
1 26 does not include electricity, steam, or any taxable service
1 27 when purchased and used in the processing of tangible personal
1 28 property intended to be sold ultimately at retail. When used
1 29 by a manufacturer of food products, carbon dioxide in a
1 30 liquid, solid, or gaseous form, electricity, steam, and other
1 31 taxable services are sold for processing when used to produce
1 32 marketable food products for human consumption, including but
1 33 not limited to, treatment of material to change its form,
1 34 context, or condition, in order to produce the food product,
1 35 maintenance of quality or integrity of the food product,
2 1 changing or maintenance of temperature levels necessary to
2 2 avoid spoilage or to hold the food product in marketable
2 3 condition, maintenance of environmental conditions necessary
2 4 for the safe or efficient use of machinery and material used
2 5 to produce the food product, sanitation and quality control
2 6 activities, formation of packaging, placement into shipping
2 7 containers, and movement of the material or food product until
2 8 shipment from the building of manufacture. Tangible personal
2 9 property is sold for processing within the meaning of this
2 10 subsection only when it is intended that the property will, by
2 11 means of fabrication, compounding, manufacturing, or
2 12 germination become an integral part of other tangible personal
2 13 property intended to be sold ultimately at retail; or will be
2 14 consumed as fuel in creating heat, power, or steam for
2 15 processing including grain drying, or for providing heat or
2 16 cooling for livestock buildings or for greenhouses or
2 17 buildings or parts of buildings dedicated to the production of
2 18 flowering, ornamental, or vegetable plants intended for sale
2 19 in the ordinary course of business, or for generating electric
2 20 current, or in implements of husbandry engaged in agricultural
2 21 production; or the property is a chemical, solvent, sorbent,

2 22 or reagent, which is directly used and is consumed,
2 23 dissipated, or depleted, in processing personal property which
2 24 is intended to be sold ultimately at retail or consumed in the
2 25 maintenance or repair of fabric or clothing, and which may not
2 26 become a component or integral part of the finished product.
2 27 The distribution to the public of free newspapers or shoppers
2 28 guides is a retail sale for purposes of the processing
2 29 exemption.

2 30 Sec. 3. Section [422.45](#), subsection 39, paragraphs a and c,
2 31 Code 1995, are amended to read as follows:

2 32 a. The implement, machinery, or equipment is directly and
2 33 primarily used in livestock or dairy production or in the
2 34 production of flowering, ornamental, or vegetable plants.

2 35 c. The replacement part is essential to any repair or
3 1 reconstruction necessary to the farm machinery's or
3 2 equipment's exempt use in livestock or dairy production or in
3 3 the production of flowering, ornamental, or vegetable plants.

3 4 Sec. 4. Section 422.47, subsection 4, paragraph f, Code
3 5 1995, is amended to read as follows:

3 6 f. In this section, "fuel" includes gas, electricity,
3 7 water, heat, steam, and any other tangible personal property
3 8 consumed in creating heat, power, or steam. In this section,
3 9 "fuel consumed in processing" means fuel used or disposed of
3 10 for processing including grain drying, for providing heat or
3 11 cooling for livestock buildings or for greenhouses or
3 12 buildings or parts of buildings dedicated to the production of
3 13 flowering, ornamental, or vegetable plants intended for sale
3 14 in the ordinary course of business, or for generating electric
3 15 current, or in implements of husbandry engaged in agricultural
3 16 production. In this subsection, "fuel exemption certificate"
3 17 means an exemption certificate given by the purchaser under
3 18 penalty of perjury to assist retailers in properly accounting
3 19 for nontaxable sales of fuel consumed in processing. In this
3 20 subsection, "substantial change" means a change in the use or
3 21 disposition of tangible personal property and services by the
3 22 purchaser such that the purchaser pays less than ninety
3 23 percent of the purchaser's actual sales tax liability. A
3 24 change includes a misstatement of facts in an application made
3 25 pursuant to paragraph "c" or in a fuel exemption certificate.

3 26 EXPLANATION

3 27 This bill defines "agricultural production" and
3 28 "agricultural products" to include the production of
3 29 flowering, ornamental, or vegetable plants for the purpose of
3 30 the state sales tax. The bill defines "farm machinery and
3 31 equipment" as machinery and equipment used in agricultural
3 32 production. The bill exempts from sales taxation fuel used to
3 33 provide heat or cooling for greenhouses and buildings
3 34 dedicated to the production of flowering, ornamental, or
3 35 vegetable plants intended to be sold in the regular course of
4 1 business and non-self-propelled machinery and equipment used
4 2 in the production of flowering, ornamental, or vegetable
4 3 plants. Present law exempts only fuel used to heat or cool
4 4 livestock buildings and non-self-propelled machinery and
4 5 equipment used in livestock or dairy production.

4 6 LSB 1576XL 76

4 7 sc/cf/24