

FILED APR 16 '03

SENATE FILE 447

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1156)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the state sales and use tax exemption for the
2 use of sorbents in processing.

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

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SF 447

1 Section 1. Section 422.42, subsection 15, Code 2003, is
2 amended to read as follows:

3 15. "Retail sale" or "sale at retail" means the sale to a
4 consumer or to any person for any purpose, other than for
5 processing, for resale of tangible personal property or
6 taxable services, or for resale of tangible personal property
7 in connection with taxable services; and includes the sale of
8 gas, electricity, water, and communication service to retail
9 consumers or users; but does not include agricultural breeding
10 livestock and domesticated fowl; and does not include
11 commercial fertilizer, agricultural limestone, herbicide,
12 pesticide, insecticide, including adjuvants, surfactants, and
13 other products directly related to the application enhancement
14 of those products, and food, medication, or agricultural drain
15 tile, including installation of agricultural drain tile, any
16 of which are to be used in disease control, weed control,
17 insect control, or health promotion of plants or livestock
18 produced as part of agricultural production for market; and
19 does not include electricity, steam, or any taxable service
20 when purchased and used in the processing of tangible personal
21 property intended to be sold ultimately at retail.

22 PARAGRAPH DIVIDED. When used by a manufacturer of food
23 products, carbon dioxide in a liquid, solid, or gaseous form,
24 electricity, steam, and other taxable services are sold for
25 processing when used to produce marketable food products for
26 human consumption, including but not limited to, treatment of
27 material to change its form, context, or condition, in order
28 to produce the food product, maintenance of quality or
29 integrity of the food product, changing or maintenance of
30 temperature levels necessary to avoid spoilage or to hold the
31 food product in marketable condition, maintenance of
32 environmental conditions necessary for the safe or efficient
33 use of machinery and material used to produce the food
34 product, sanitation and quality control activities, formation
35 of packaging, placement into shipping containers, and movement

1 of the material or food product until shipment from the
2 building of manufacture.

3 PARAGRAPH DIVIDED. Tangible personal property is sold for
4 processing within the meaning of this subsection only when it
5 is intended that the property will, by means of fabrication,
6 compounding, manufacturing, or germination become an integral
7 part of other tangible personal property intended to be sold
8 ultimately at retail; or will be consumed as fuel in creating
9 heat, power, or steam for processing including grain drying,
10 or for providing heat or cooling for livestock buildings or
11 for greenhouses or buildings or parts of buildings dedicated
12 to the production of flowering, ornamental, or vegetable
13 plants intended for sale in the ordinary course of business,
14 or for use in cultivation of agricultural products by
15 aquaculture, or for generating electric current, or in
16 implements of husbandry engaged in agricultural production; or
17 the property is a chemical, solvent, sorbent of matter or
18 energy, or reagent, which is directly used and is consumed,
19 dissipated, or depleted, in processing personal property which
20 is intended to be sold ultimately at retail or consumed in the
21 maintenance or repair of fabric or clothing, and which may not
22 become a component or integral part of the finished product.
23 The distribution to the public of free newspapers or shoppers
24 guides is a retail sale for purposes of the processing
25 exemption.

26 Sec. 2. Section 423.1, subsection 15, paragraph c, Code
27 2003, is amended to read as follows:

28 c. Chemicals, solvents, sorbents of matter or energy, or
29 reagents, which are directly used and are consumed,
30 dissipated, or depleted in processing personal property, which
31 is intended to be sold ultimately at retail, and which may not
32 become a component or integral part of the finished product.

33 EXPLANATION

34 Under the sales and use tax provisions, property used in
35 processing tangible personal property for sale at retail is

1 exempt when purchased. Sorbents are such property. This bill
2 specifies that sorbents of matter or sorbents of energy are
3 both considered property used in processing.

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9 SF 447 – Sorbent Sales and Use Tax Exemption (LSB 2953 SV)
10 Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)
11 Fiscal Note Version — New
12 Requested by: Senator Doug Shull

12 **Description**

13 Section 422.42 (15), Code of Iowa, exempts sorbents consumed in the manufacturing
14 processing from the State sales and use tax and from the local option sales tax. Senate File
15 447 clarifies that the exemption applies to sorbents of both matter and energy. The exemption
16 would begin July 1, 2003, and there is no refund or retroactive exemption provision.

17 **Assumptions**

- 18 1. Without legislation, the Department of Revenue and Finance will continue to interpret
19 Iowa's sales & use tax statutes in a manner subjecting sorbents of energy to the 5.0%
20 tax, and this interpretation will not be overturned in legal proceedings.
- 21 2. In 2003, Iowa manufacturers will expend \$5.1 million on energy sorbents (mostly cutting
22 oil).

22 **Fiscal Impact**

23 The sales and use tax exemption contained in SF 447 will reduce General Fund revenues by
24 \$255,000 in FY 2004 and future fiscal years.

25 The tax exemption will also impact those local governments with a local option sales tax. The
26 exemption would only apply to sales subject to the retail sales tax. Sales subject to the use tax
27 are already excluded from local option sales taxes. If 50.0% of annual sales are in the form of
28 retail sales and take place in a local option jurisdiction, then the impact would be \$26,000 per
29 year.

30 **Sources**

31 Department of Revenue and Finance
32 Legislative Fiscal Bureau Analysis

/s/ Dennis C Prouty

April 25, 2003

35

Shull
McKibben
Dotler

Ways and Means

SSB 1156
Succeeded By
SF/HF 447

SENATE FILE _____
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY
CHAIRPERSON MCKIBBEN)

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