

SENATE FILE 409
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1312)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to financial transactions including the sale of
2 specific items used in livestock and plant production,
3 providing for an exemption and refund of sales and use taxes,
4 providing for a maximum finance charge on consumer loans
5 secured by a certificate of title to a motor vehicle, making
6 penalties applicable, and including an effective and
7 retroactive applicability date provision.

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

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SC 409

1 Section 1. Section 423.3, subsection 11, unnumbered
2 paragraph 1, Code 2005, is amended to read as follows:

3 The sales price exclusive of services of farm machinery and
4 equipment, including auxiliary attachments which improve the
5 performance, safety, operation, or efficiency of the machinery
6 and equipment, and including auger systems, curtains and
7 curtain systems, drip systems, fan and fan systems, shutters,
8 inlets and shutter or inlet systems, and refrigerators, and
9 replacement parts, if all of the following conditions are met:

10 Sec. 2. Section 537.2401, subsection 1, Code 2005, is
11 amended to read as follows:

12 1. Except as provided with respect to a finance charge for
13 loans pursuant to open end credit under section 537.2402 and
14 loans secured by a certificate of title of a motor vehicle
15 under section 537.2403, a lender may contract for and receive
16 a finance charge not exceeding the maximum charge permitted by
17 the laws of this state or of the United States for similar
18 lenders, and, in addition, with respect to a consumer loan, a
19 supervised financial organization or a mortgage lender may
20 contract for and receive a finance charge, calculated
21 according to the actuarial method, not exceeding twenty-one
22 percent per year on the unpaid balance of the amount financed.
23 This Except as provided in section 537.2403, this subsection
24 does not prohibit a lender from contracting for and receiving
25 a finance charge exceeding twenty-one percent per year on the
26 unpaid balance of the amount financed on consumer loans if
27 authorized by other provisions of the law.

28 Sec. 3. Section 537.2402, subsection 1, Code 2005, is
29 amended to read as follows:

30 1. If authorized to make supervised loans, a creditor may
31 contract for and receive a finance charge without limitation
32 as to amount or rate with respect to a loan pursuant to open-
33 end credit as permitted in this section except as provided in
34 section 537.2403.

35 Sec. 4. NEW SECTION. 537.2403 FINANCE CHARGE FOR

1 CONSUMER LOANS SECURED BY A MOTOR VEHICLE.

2 1. A lender shall not contract for or receive a finance
3 charge exceeding twenty-one percent per year on the unpaid
4 balance of the amount financed for a loan of money secured by
5 a certificate of title to a motor vehicle used for personal,
6 family, or household purpose except as authorized under
7 chapter 536 or 536A. A consumer who is charged a finance
8 charge in excess of the limitation in this section may seek
9 any remedies available pursuant to this chapter for an excess
10 charge.

11 2. It shall be a violation of this section and an unlawful
12 practice under section 714.16 to attempt to avoid application
13 of this section by structuring a loan of money secured by
14 certificate of title to a motor vehicle as a sale, sale and
15 repurchase, sale and lease, pawn, rental purchase, lease, or
16 other type of transaction with the intent to avoid application
17 of this section or any other applicable provision of this
18 chapter.

19 Sec. 5. REFUNDS. Refunds of taxes, interest, or penalties
20 which arise from claims resulting from the amendment of
21 section 423.3, subsection 11, in this Act, for the exemption
22 of sales of auger systems, curtains and curtain systems, drip
23 systems, fan and fan systems, shutters, inlets and shutter or
24 inlet systems, and refrigerators occurring between January 1,
25 1992, and the effective date of this Act, shall be limited to
26 twenty-five thousand dollars in the aggregate and shall not be
27 allowed unless refund claims are filed prior to October 1,
28 2005, notwithstanding any other provision of law. If the
29 amount of claims totals more than twenty-five thousand dollars
30 in the aggregate, the department of revenue shall prorate the
31 twenty-five thousand dollars among all claimants in relation
32 to the amounts of the claimants' valid claims. Claimants
33 shall not be entitled to interest on any refunds.

34 Sec. 6. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
35 PROVISION. This Act, being deemed of immediate importance,

1 takes effect upon enactment and applies retroactively to
2 January 1, 1992.

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EXPLANATION

4 This bill relates to financial transactions involving
5 certain equipment and motor vehicle sales and loan
6 transactions.

7 The bill adds to the exemption from the sales and use taxes
8 of the sales of farm machinery and equipment to include auger
9 systems, curtains and curtain systems, drip systems, fans and
10 fan systems, shutters, inlets and shutter or inlet systems,
11 and refrigerators. The exemption of these additional items is
12 retroactive to sales occurring on or after January 1, 1992.
13 Because of the retroactivity, a provision for refund of taxes,
14 interest, and penalties is included in the bill. However, the
15 claims for refunds are limited to \$25,000 in the aggregate,
16 and claims must be filed by October 1, 2005.

17 The bill relates to the maximum finance charge allowed for
18 consumer loans secured by a certificate of title to a motor
19 vehicle. The bill prohibits a lender from contracting for or
20 receiving a finance charge which exceeds 21 percent per year
21 on the unpaid balance of a loan for money which is secured by
22 a certificate of title to a motor vehicle. The remedies under
23 Code chapter 537 for excess charges are available to consumers
24 who are charged a finance charge in excess of 21 percent per
25 year for such a consumer loan. The bill provides that an
26 attempt to avoid application of the maximum finance charge on
27 a loan secured by a certificate of title to a motor vehicle by
28 structuring the transaction as a sale, sale and repurchase,
29 sale and lease, pawn, rental purchase, or lease with the
30 intent to avoid the maximum finance charge shall be considered
31 a violation of the maximum finance charge and shall be
32 considered a consumer fraud subject to civil penalties and
33 enforcement pursuant to Code section 714.16.

34 Under current law, a consumer is not obligated to pay an
35 excess charge and is entitled to a refund of any excess charge

1 paid. If a consumer entitled to a refund is refused the
2 refund, the consumer may recover from the creditor or other
3 person liable in a civil action the excess charge and a
4 penalty of not less than \$100 or more than \$1,000. Under
5 current law, a person who willfully and knowingly makes an
6 excess charge is guilty of a serious misdemeanor. A serious
7 misdemeanor is punishable by confinement for no more than one
8 year and a fine of at least \$250 but not more than \$1,500.

9 The bill takes effect upon enactment and applies
10 retroactively to January 1, 1992.

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Hahn co-chair
Stewart co-chair
McKibben
Dotzler

Succeeded By
SF/HF 409

SSB# 1312
Ways & Means

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CO-CHAIRPERSON ZIEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for an exemption from sales and use taxes for
2 specific items used in livestock and plant production,
3 providing a refund, and including effective and retroactive
4 applicability date provisions.

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

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1 Section 1. Section 423.3, subsection 11, unnumbered
2 paragraph 1, Code 2005, is amended to read as follows:

3 The sales price exclusive of services of farm machinery and
4 equipment, including auxiliary attachments which improve the
5 performance, safety, operation, or efficiency of the machinery
6 and equipment, and including auger systems, curtains and
7 curtain systems, drip systems, fans, shutters, refrigerators,
8 and washing machines and dryers, and replacement parts, if all
9 of the following conditions are met:

10 Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties
11 which arise from claims resulting from the amendment of
12 section 423.2, subsection 11, in this Act, for the exemption
13 of sales of auger systems, curtains and curtain systems, drip
14 systems, fans, shutters, refrigerators, and washing machines
15 and dryers occurring between January 1, 1992, and the
16 effective date of this Act, shall be limited to twenty-five
17 thousand dollars in the aggregate and shall not be allowed
18 unless refund claims are filed prior to October 1, 2005,
19 notwithstanding any other provision of law. If the amount of
20 claims totals more than twenty-five thousand dollars in the
21 aggregate, the department of revenue shall prorate the twenty-
22 five thousand dollars among all claimants in relation to the
23 amounts of the claimants' valid claims. Claimants shall not
24 be entitled to interest on any refunds.

25 Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
26 PROVISION. This Act, being deemed of immediate importance,
27 takes effect upon enactment and applies retroactively to
28 January 1, 1992.

29 EXPLANATION

30 This bill adds to the exemption from the sales and use
31 taxes of the sales of farm machinery and equipment to include
32 auger systems, curtains and curtain systems, drip systems,
33 fans, shutters, refrigerators, and washing machines and
34 dryers. The exemption of these additional items is
35 retroactive to sales occurring on or after January 1, 1992.

1 Because of the retroactivity, a provision for refund of taxes,
2 interest, and penalties is included in the bill. However, the
3 claims for refunds are limited to \$25,000 in the aggregate,
4 and claims must be filed by October 1, 2005.

5 The bill takes effect upon enactment and applies
6 retroactively to January 1, 1992.

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