

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1378

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DATE
02/08/2023

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734 Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; sales and use; expanding the sales tax exemption for certain
1.3 meals and drinks; expanding the sales tax exemption for certain capital equipment
1.4 purchases; amending Minnesota Statutes 2022, section 297A.68, subdivision 5,
1.5 by adding subdivisions.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 297A.68, subdivision 5, is amended to read:

1.8 Subd. 5. **Capital equipment.** (a) Capital equipment is exempt.

1.9 "Capital equipment" means machinery and equipment purchased or leased, and used in
1.10 this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or
1.11 refining tangible personal property to be sold ultimately at retail if the machinery and
1.12 equipment are essential to the integrated production process of manufacturing, fabricating,
1.13 mining, or refining. Capital equipment also includes machinery and equipment used primarily
1.14 to electronically transmit results retrieved by a customer of an online computerized data
1.15 retrieval system and machinery and equipment used by mobile food units and restaurants,
1.16 as defined in section 157.15, subdivisions 9 and 12, in the furnishing, preparing, or serving
1.17 of prepared foods as defined in section 297A.61, subdivision 31.

1.18 (b) Capital equipment includes, but is not limited to:

1.19 (1) machinery and equipment used to operate, control, or regulate the production
1.20 equipment;

1.21 (2) machinery and equipment used for research and development, design, quality control,
1.22 and testing activities;

2.1 (3) environmental control devices that are used to maintain conditions such as
 2.2 temperature, humidity, light, or air pressure when those conditions are essential to and are
 2.3 part of the production process;

2.4 (4) materials and supplies used to construct and install machinery or equipment;

2.5 (5) repair and replacement parts, including accessories, whether purchased as spare parts,
 2.6 repair parts, or as upgrades or modifications to machinery or equipment;

2.7 (6) materials used for foundations that support machinery or equipment;

2.8 (7) materials used to construct and install special purpose buildings used in the production
 2.9 process;

2.10 (8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part
 2.11 of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed
 2.12 concrete trucks, and leases of ready-mixed concrete trucks; and

2.13 (9) machinery or equipment used for research, development, design, or production of
 2.14 computer software.

2.15 (c) Capital equipment does not include the following:

2.16 (1) motor vehicles taxed under chapter 297B;

2.17 (2) machinery or equipment used to receive or store raw materials;

2.18 (3) building materials, except for materials included in paragraph (b), clauses (6) and
 2.19 (7);

2.20 (4) machinery or equipment used for nonproduction purposes, including, but not limited
 2.21 to, the following: plant security, fire prevention, first aid, and hospital stations; support
 2.22 operations or administration; pollution control; and plant cleaning, disposal of scrap and
 2.23 waste, plant communications, space heating, cooling, lighting, or safety;

2.24 (5) farm machinery and aquaculture production equipment as defined by section 297A.61,
 2.25 subdivisions 12 and 13;

2.26 (6) machinery or equipment purchased and installed by a contractor as part of an
 2.27 improvement to real property;

2.28 ~~(7) machinery and equipment used by restaurants in the furnishing, preparing, or serving~~
 2.29 ~~of prepared foods as defined in section 297A.61, subdivision 31;~~

2.30 ~~(8)~~ (7) machinery and equipment used to furnish the services listed in section 297A.61,
 2.31 subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

3.1 ~~(9)~~ (8) machinery or equipment used in the transportation, transmission, or distribution
3.2 of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines,
3.3 tanks, mains, or other means of transporting those products. This clause does not apply to
3.4 machinery or equipment used to blend petroleum or biodiesel fuel as defined in section
3.5 239.77; or

3.6 ~~(10)~~ (9) any other item that is not essential to the integrated process of manufacturing,
3.7 fabricating, mining, or refining.

3.8 (d) For purposes of this subdivision:

3.9 (1) "Equipment" means independent devices or tools separate from machinery but
3.10 essential to an integrated production process, including computers and computer software,
3.11 used in operating, controlling, or regulating machinery and equipment; and any subunit or
3.12 assembly comprising a component of any machinery or accessory or attachment parts of
3.13 machinery, such as tools, dies, jigs, patterns, and molds.

3.14 (2) "Fabricating" means to make, build, create, produce, or assemble components or
3.15 property to work in a new or different manner.

3.16 (3) "Integrated production process" means a process or series of operations through
3.17 which tangible personal property is manufactured, fabricated, mined, or refined. For purposes
3.18 of this clause, (i) manufacturing begins with the removal of raw materials from inventory
3.19 and ends when the last process prior to loading for shipment has been completed; (ii)
3.20 fabricating begins with the removal from storage or inventory of the property to be assembled,
3.21 processed, altered, or modified and ends with the creation or production of the new or
3.22 changed product; (iii) mining begins with the removal of overburden from the site of the
3.23 ores, minerals, stone, peat deposit, or surface materials and ends when the last process before
3.24 stockpiling is completed; and (iv) refining begins with the removal from inventory or storage
3.25 of a natural resource and ends with the conversion of the item to its completed form.

3.26 (4) "Machinery" means mechanical, electronic, or electrical devices, including computers
3.27 and computer software, that are purchased or constructed to be used for the activities set
3.28 forth in paragraph (a), beginning with the removal of raw materials from inventory through
3.29 completion of the product, including packaging of the product.

3.30 (5) "Machinery and equipment used for pollution control" means machinery and
3.31 equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity
3.32 described in paragraph (a).

4.1 (6) "Manufacturing" means an operation or series of operations where raw materials are
4.2 changed in form, composition, or condition by machinery and equipment and which results
4.3 in the production of a new article of tangible personal property. For purposes of this
4.4 subdivision, "manufacturing" includes the generation of electricity or steam to be sold at
4.5 retail.

4.6 (7) "Mining" means the extraction of minerals, ores, stone, or peat.

4.7 (8) "Online data retrieval system" means a system whose cumulation of information is
4.8 equally available and accessible to all its customers.

4.9 (9) "Primarily" means machinery and equipment used 50 percent or more of the time in
4.10 an activity described in paragraph (a).

4.11 (10) "Refining" means the process of converting a natural resource to an intermediate
4.12 or finished product, including the treatment of water to be sold at retail.

4.13 (11) This subdivision does not apply to telecommunications equipment as provided in
4.14 subdivision 35a, and does not apply to wire, cable, or poles for telecommunications services.

4.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.16 30, 2023.

4.17 Sec. 2. Minnesota Statutes 2022, section 297A.68, is amended by adding a subdivision to
4.18 read:

4.19 **Subd. 46. Complimentary meals and beverages.** Meals, nonalcoholic beverages, and
4.20 alcoholic beverages provided by a restaurant as defined under section 157.15, subdivision
4.21 12, to a customer at no cost to the customer are exempt.

4.22 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.23 30, 2023.

4.24 Sec. 3. Minnesota Statutes 2022, section 297A.68, is amended by adding a subdivision to
4.25 read:

4.26 **Subd. 47. Employee food and drink.** Prepared food and drinks purchased for and served
4.27 to employees of restaurants defined under section 157.15, subdivision 12, are exempt.

4.28 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.29 30, 2023.