

AMENDED IN SENATE SEPTEMBER 8, 2009

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 394**

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**Introduced by Assembly Member Torrico**  
(Coauthors: Senators Corbett and Wright)

February 23, 2009

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An act to add Section 6356.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as amended, Torrico. Sales and use taxes: exemption: automobile manufacturing.

(1) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as specified, purchased for use by an automobile manufacturer located in Fremont, California or purchased for use by a contractor who will use the property in performing a construction contract for the automobile manufacturer, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and the Transactions and Use Tax

Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these laws. ~~Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.~~

This bill would provide that, ~~notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill~~ *this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state sales and use taxes.*

(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6356.7 is added to the Revenue and  
2 Taxation Code, to read:

3 6356.7. (a) There are exempted from the taxes imposed by  
4 this part the gross receipts from the sale of, and the storage, use,  
5 or other consumption in this state of, both of the following:

6 (1) Tangible personal property purchased for use by an  
7 automobile manufacturer located in Fremont, California, to be  
8 used primarily in any stage of the manufacturing, processing,  
9 refining, fabricating, or assembling of automobiles, beginning at  
10 the point any raw materials are received by the automobile  
11 manufacturer located in Fremont, California, and introduced into  
12 the process and ending at the point at which the manufacturing,  
13 processing, refining, fabricating, or assembling has altered property  
14 to its completed form.

15 (2) Tangible personal property purchased for use by a contractor  
16 purchasing that property for use in the performance of a  
17 construction contract to construct a special purpose building or  
18 foundation, including a research or storage facility used during the  
19 manufacturing process, for an automobile manufacturer located  
20 in Fremont, California who will use the special purpose building  
21 or foundation as an integral part of the manufacturing, processing,

1 refining, or fabricating process. A building used solely for  
2 warehousing purposes after completion of the manufacturing  
3 process is not a special purpose building.

4 (b) For purposes of this section:

5 (1) "Automobile manufacturer" means a person who is primarily  
6 engaged in that line of business described in Code 3361111 of the  
7 North American Industrial Classification System (NAICS)  
8 published by the United States Office of Management and Budget  
9 (OMB), 2002 edition.

10 (2) "Tangible personal property" includes, but is not limited to,  
11 all of the following:

12 (A) Machinery and equipment, including component parts and  
13 contrivances such as belts, shafts, moving parts, and operating  
14 structures.

15 (B) All equipment or devices used or required to operate,  
16 control, regulate, or maintain the machinery, including, without  
17 limitation, computers, data processing equipment, and computer  
18 software, together with all repair and replacement parts with a  
19 useful life of one or more years therefor, whether purchased  
20 separately or in conjunction with a complete machine and  
21 regardless of whether the machine or component parts are  
22 assembled by the taxpayer or another party.

23 (c) No exemption shall be allowed under this section unless the  
24 purchaser furnishes the retailer with an exemption certificate,  
25 completed in accordance with any instructions or regulations as  
26 the board may prescribe.

27 (d) Notwithstanding subdivision (a), the exemption provided  
28 by this section shall not apply to any sale or use of property that,  
29 within one year from the date of purchase, is either removed from  
30 California, converted from an exempt use under subdivision (a)  
31 to some other use not qualifying for the exemption, or used in a  
32 manner not qualifying for the exemption.

33 (e) If a purchaser certifies in writing to the seller that the  
34 property purchased without payment of the tax will be used in a  
35 manner entitling the seller to regard the gross receipts from the  
36 sale as exempt from the sales tax, and within one year from the  
37 date of purchase, the purchaser (1) removes that property outside  
38 California, (2) converts that property for use in a manner not  
39 qualifying for the exemption, or (3) uses that property in a manner  
40 not qualifying for the exemption, the purchaser shall be liable for

1 payment of sales tax, with applicable interest, as if the purchaser  
2 were a retailer making a retail sale of the property at the time the  
3 property is so removed, converted, or used, and the cost of the  
4 property to the purchaser shall be deemed the gross receipts from  
5 that retail sale.

6 *(f) (1) Notwithstanding any provision of the Bradley-Burns*  
7 *Uniform Local Sales and Use Tax Law (Part 1.5 (commencing*  
8 *with Section 7200)) or the Transactions and Use Tax Law (Part*  
9 *1.6 (commencing with Section 7251)), the exemption provided by*  
10 *this section shall not apply with respect to any tax levied by a*  
11 *county, city, or district pursuant to, or in accordance with, either*  
12 *of those laws.*

13 *(2) The exemption provided by this section shall not apply with*  
14 *respect to any tax levied pursuant to Section 6051.2, 6051.5,*  
15 *6201.2, or 6201.5, or pursuant to Section 35 of Article XIII of the*  
16 *California Constitution.*

17 SEC. 2. The Legislature finds and declares that a special law  
18 is necessary and that a general law cannot be made applicable  
19 within the meaning of Section 16 of Article IV of the California  
20 Constitution because of the unique circumstances and economic  
21 importance of automobile manufacturing in Fremont, California.

22 ~~SEC. 3. Notwithstanding Section 2230 of the Revenue and~~  
23 ~~Taxation Code, no appropriation is made by this act and the state~~  
24 ~~shall not reimburse any local agency for any sales and use tax~~  
25 ~~revenues lost by it under this act.~~