

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

S.F. No. 3851

(SENATE AUTHORS: JOHNSON and Goggin)

DATE
03/09/2022

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; sales and use; temporarily exempting certain sales of electricity;
1.3 amending Minnesota Statutes 2020, sections 297A.67, subdivision 15, by adding
1.4 a subdivision; 297A.68, subdivisions 2, 3, 10, 30.

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

1.6 Section 1. Minnesota Statutes 2020, section 297A.67, subdivision 15, is amended to read:

1.7 Subd. 15. **Residential heating fuels.** Residential heating fuels are exempt as follows:

1.8 (1) all fuel oil, coal, wood, steam, hot water, propane gas, and L.P. gas sold to residential
1.9 customers for residential use; and

1.10 (2) for the billing months of November, December, January, February, March, and April,
1.11 natural gas sold for residential use to customers who are metered and billed as residential
1.12 users and who use natural gas for their primary source of residential heat; and

1.13 ~~(3) for the billing months of November, December, January, February, March, and April,~~
1.14 ~~electricity sold for residential use to customers who are metered and billed as residential~~
1.15 ~~users and who use electricity for their primary source of residential heat.~~

1.16 EFFECTIVE DATE. This section is effective for sales and purchases of electricity
1.17 made after June 30, 2022, and before July 1, 2024.

1.18 Sec. 2. Minnesota Statutes 2020, section 297A.67, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 39. **Electricity services.** Sales of electricity are exempt.

2.1 **EFFECTIVE DATE.** This section is effective for sales and purchases of electricity
2.2 made after June 30, 2022, and before July 1, 2024.

2.3 Sec. 3. Minnesota Statutes 2020, section 297A.68, subdivision 2, is amended to read:

2.4 Subd. 2. **Materials consumed in industrial production.** (a) Materials stored, used, or
2.5 consumed in industrial production of tangible personal property intended to be sold ultimately
2.6 at retail, are exempt, whether or not the item so used becomes an ingredient or constituent
2.7 part of the property produced. Materials that qualify for this exemption include, but are not
2.8 limited to, the following:

2.9 (1) chemicals, including chemicals used for cleaning food processing machinery and
2.10 equipment;

2.11 (2) materials, including chemicals, fuels, and electricity purchased by persons engaged
2.12 in industrial production to treat waste generated as a result of the production process;

2.13 (3) fuels, electricity, gas, and steam used or consumed in the production process, except
2.14 that ~~electricity~~, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it
2.15 is in excess of the average climate control or lighting for the production area, and (ii) it is
2.16 necessary to produce that particular product;

2.17 (4) petroleum products and lubricants;

2.18 (5) packaging materials, including returnable containers used in packaging food and
2.19 beverage products;

2.20 (6) accessory tools, equipment, and other items that are separate detachable units with
2.21 an ordinary useful life of less than 12 months used in producing a direct effect upon the
2.22 product; and

2.23 (7) the following materials, tools, and equipment used in metal-casting: crucibles,
2.24 thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal
2.25 filters and filter boxes, degassing lances, and base blocks.

2.26 (b) This exemption does not include:

2.27 (1) machinery, equipment, implements, tools, accessories, appliances, contrivances and
2.28 furniture and fixtures, except those listed in paragraph (a), clause (6); and

2.29 (2) petroleum and special fuels used in producing or generating power for propelling
2.30 ready-mixed concrete trucks on the public highways of this state.

3.1 (c) Industrial production includes, but is not limited to, research, development, design
 3.2 or production of any tangible personal property, manufacturing, processing (other than by
 3.3 restaurants and consumers) of agricultural products (whether vegetable or animal),
 3.4 commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining,
 3.5 quarrying, lumbering, generating electricity, the production of road building materials, and
 3.6 the research, development, design, or production of computer software. Industrial production
 3.7 does not include painting, cleaning, repairing or similar processing of property except as
 3.8 part of the original manufacturing process.

3.9 (d) Industrial production does not include:

3.10 (1) the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g),
 3.11 clause (6), items (i) to (vi) and (viii); or

3.12 (2) the transportation, transmission, or distribution of petroleum, liquefied gas, natural
 3.13 gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of
 3.14 transporting those products. For purposes of this paragraph, "transportation, transmission,
 3.15 or distribution" does not include blending of petroleum or biodiesel fuel as defined in section
 3.16 239.77.

3.17 **EFFECTIVE DATE.** This section is effective for sales and purchases of electricity
 3.18 made after June 30, 2022, and before July 1, 2024.

3.19 Sec. 4. Minnesota Statutes 2020, section 297A.68, subdivision 3, is amended to read:

3.20 Subd. 3. **Materials used in providing certain taxable services.** (a) Materials stored,
 3.21 used, or consumed in providing a taxable service listed in section 297A.61, subdivision 3,
 3.22 paragraph (g), clause (6), intended to be sold ultimately at retail are exempt.

3.23 (b) This exemption includes, but is not limited to:

3.24 (1) chemicals, lubricants, packaging materials, seeds, trees, fertilizers, and herbicides,
 3.25 if these items are used or consumed in providing the taxable service;

3.26 (2) chemicals used to treat waste generated as a result of providing the taxable service;

3.27 (3) accessory tools, equipment, and other items that are separate detachable units used
 3.28 in providing the service and that have an ordinary useful life of less than 12 months; and

3.29 (4) fuel, electricity, gas, and steam used or consumed in the production process, except
 3.30 that ~~electricity~~, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it
 3.31 is in excess of average climate control or lighting, and (ii) it is necessary to produce that
 3.32 particular service.

4.1 (c) This exemption does not include machinery, equipment, implements, tools,
4.2 accessories, appliances, contrivances, furniture, and fixtures used in providing the taxable
4.3 service.

4.4 **EFFECTIVE DATE.** This section is effective for sales and purchases of electricity
4.5 made after June 30, 2022, and before July 1, 2024.

4.6 Sec. 5. Minnesota Statutes 2020, section 297A.68, subdivision 10, is amended to read:

4.7 Subd. 10. **Publications; publication materials.** Tangible personal property that is used
4.8 or consumed in producing any publication regularly issued at average intervals not exceeding
4.9 three months is exempt, and any such publication is exempt. "Publication" includes, but is
4.10 not limited to, a qualified newspaper as defined by section 331A.02, together with any
4.11 supplements or enclosures. "Publication" does not include magazines and periodicals sold
4.12 over the counter. Tangible personal property that is used or consumed in producing a
4.13 publication does not include machinery, equipment, implements, tools, accessories,
4.14 appliances, contrivances, furniture, and fixtures used in the publication, or fuel, ~~electricity,~~
4.15 gas, or steam used for space heating or lighting.

4.16 Advertising contained in a publication is a nontaxable service and is exempt. Persons
4.17 who publish or sell newspapers are engaging in a nontaxable service with respect to gross
4.18 receipts realized from such news-gathering or news-publishing activities, including the sale
4.19 of advertising.

4.20 **EFFECTIVE DATE.** This section is effective for sales and purchases of electricity
4.21 made after June 30, 2022, and before July 1, 2024.

4.22 Sec. 6. Minnesota Statutes 2020, section 297A.68, subdivision 30, is amended to read:

4.23 Subd. 30. **Television commercials.** Tangible personal property primarily used or
4.24 consumed in the preproduction, production, or postproduction of a television commercial
4.25 is exempt. Any such commercial, regardless of the medium in which it is transferred, is
4.26 exempt. "Preproduction" and "production" include, but are not limited to, all activities
4.27 related to the preparation for shooting and the shooting of television commercials, including
4.28 film processing. Equipment rented for the preproduction and production activities is exempt.
4.29 "Postproduction" includes, but is not limited to, all activities related to the finishing and
4.30 duplication of television commercials. This exemption does not apply to tangible personal
4.31 property used primarily in administration, general management, or marketing. Machinery
4.32 and equipment purchased for use in producing such commercials and fuel, ~~electricity,~~ gas,
4.33 or steam used for space heating or lighting are not exempt under this subdivision.

5.1 **EFFECTIVE DATE.** This section is effective for sales and purchases of electricity
5.2 made after June 30, 2022, and before July 1, 2024.

5.3 Sec. 7. **REPEALER.**

5.4 The amendments in sections 1 to 6, to Minnesota Statutes, sections 297A.67, subdivision
5.5 15, and adding subdivision 39; and 297A.68, subdivisions 2, 3, 10, and 30, are repealed on
5.6 July 1, 2024.