

ASSEMBLY BILL NO. 388—ASSEMBLYMAN LEAVITT

MARCH 21, 2019

Referred to Committee on Taxation

SUMMARY—Revises provisions governing property taxes imposed on certain heavy equipment. (BDR 32-973)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; exempting from personal property taxes certain heavy equipment used for construction, earthmoving and industrial purposes that is owned by a person engaged in the business of renting or leasing such equipment; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, personal property held for sale by a merchant is exempt  
2 from personal property taxes. (NRS 361.068) **Section 1** of this bill exempts from  
3 personal property taxes heavy equipment used for construction, earthmoving or  
4 industrial purposes that is not permanently affixed to real property and is owned by  
5 a person who is engaged in the business of renting or leasing such equipment.  
6 **Section 2** of this bill makes a conforming change so that a person who rents or  
7 leases heavy equipment that is exempt from personal property taxes pursuant to  
8 **section 1** is not required to pay personal property taxes on the rented or leased  
9 equipment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 361.068 is hereby amended to read as follows:  
2 361.068 1. The following personal property is exempt from  
3 taxation:  
4 (a) Personal property held for sale by a merchant;  
5 (b) Personal property held for sale by a manufacturer;



1 (c) Raw materials and components held by a manufacturer for  
2 manufacture into products, and supplies to be consumed in the  
3 process of manufacture;

4 (d) Tangible personal property purchased by a business which  
5 will be consumed during the operation of the business;

6 (e) Livestock;

7 (f) Colonies of bees;

8 (g) Pipe and other agricultural equipment used to convey water  
9 for the irrigation of legal crops;

10 (h) All boats;

11 (i) Slide-in campers and camper shells;

12 (j) Except as otherwise provided in NRS 361.186, fine art for  
13 public display; ~~and~~

14 (k) All personal property that is:

15 (1) Owned by a person who is not a resident of this state; and

16 (2) Located in this state solely for the purposes of:

17 (I) An exhibit that is used in a convention or tradeshow  
18 that is located in this State; or

19 (II) A display, exhibition, carnival, fair or circus that is  
20 transient in nature and is located in this State for not more than 30  
21 days ~~and~~; *and*

22 *(l) Heavy equipment used for construction, earthmoving or*  
23 *industrial purposes, including, without limitation, an attachment*  
24 *for such equipment and any other ancillary equipment and tools*  
25 *associated with such equipment, that is not permanently affixed to*  
26 *real property and is owned by a person engaged in the business of*  
27 *renting or leasing the equipment for a period of less than 365*  
28 *days, for an undefined period or pursuant to contracts with no*  
29 *defined term. Equipment described in this paragraph is exempt*  
30 *from taxation, whether or not the property is being rented or*  
31 *leased by a person other than the owner of the equipment and*  
32 *whether or not the property is subsequently sold by the owner.*

33 2. The Nevada Tax Commission may exempt from taxation  
34 that personal property for which the annual taxes would be less than  
35 the cost of collecting those taxes. If such an exemption is provided,  
36 the Nevada Tax Commission shall annually determine the average  
37 cost of collecting property taxes in this state which must be used in  
38 determining the applicability of the exemption.

39 3. A person claiming the exemption provided for in paragraph  
40 (j) of subsection 1 shall:

41 (a) On or before June 15 for the next ensuing fiscal year, file  
42 with the county assessor an affidavit declaring that the fine art will,  
43 during that ensuing fiscal year, meet all the criteria set forth in  
44 paragraph (b) of subsection 4; and



1 (b) During any fiscal year in which the person claims the  
2 exemption, make available for educational purposes and not for  
3 resale, upon written request and without charge to any public school  
4 as defined in NRS 385.007, private school as defined in NRS  
5 394.103 and parent of a child who receives instruction in a home  
6 pursuant to NRS 392.070, one copy of a poster depicting the fine art  
7 that the facility has on public display if such a poster is available for  
8 purchase by the public at the time of the request.

9 4. As used in this section:

10 (a) "Boat" includes any vessel or other watercraft, other than a  
11 seaplane, used or capable of being used as a means of transportation  
12 on the water.

13 (b) "Fine art for public display":

14 (1) Except as otherwise provided in subparagraph (2), means  
15 a work of art which:

16 (I) Is an original painting in oil, mineral, water colors,  
17 vitreous enamel, pastel or other medium, an original mosaic,  
18 drawing or sketch, an original sculpture of clay, textiles, fiber,  
19 wood, metal, plastic, glass or a similar material, an original work of  
20 mixed media or a lithograph;

21 (II) Was purchased in an arm's length transaction for  
22 \$25,000 or more, or has an appraised value of \$25,000 or more;

23 (III) Is on public display in a public or private art gallery,  
24 museum or other building or area in this state for at least 20 hours  
25 per week during at least 35 weeks of each year for which the  
26 exemption is claimed or, if the facility displaying the fine art  
27 disposes of it before the end of that year, during at least two-thirds  
28 of the full weeks during which the facility had possession of it, or if  
29 the gallery, museum or other building or area in which the fine art  
30 will be displayed will not be opened until after the beginning of the  
31 fiscal year for which the exemption is claimed, these display  
32 requirements must be met for the first full fiscal year after the date  
33 of opening, and the date of opening must not be later than 2 years  
34 after the purchase of the fine art being displayed; and

35 (IV) Is on display in a facility that is available for group  
36 tours by pupils or students for at least 5 hours on at least 60 days of  
37 each full year for which the exemption is claimed, during which the  
38 facility in which it is displayed is open, by prior appointment and at  
39 reasonable times, without charge; and

40 (2) Does not include:

41 (I) A work of fine art that is a fixture or an improvement  
42 to real property;

43 (II) A work of fine art that constitutes a copy of an  
44 original work of fine art, unless the work is a lithograph that is a  
45 limited edition and that is signed and numbered by the artist;



1 (III) Products of filmmaking or photography, including,  
2 without limitation, motion pictures;

3 (IV) Literary works;

4 (V) Property used in the performing arts, including,  
5 without limitation, scenery or props for a stage; or

6 (VI) Property that was created for a functional use other  
7 than, or in addition to, its aesthetic qualities, including, without  
8 limitation, a classic or custom-built automobile or boat, a sign that  
9 advertises a business, and custom or antique furniture, lamps,  
10 chandeliers, jewelry, mirrors, doors or windows.

11 (c) "Personal property held for sale by a merchant" includes  
12 property that:

13 (1) Meets the requirements of sub-subparagraphs (I) and (II)  
14 of subparagraph (1) of paragraph (b);

15 (2) Is made available for sale within 2 years after it is  
16 acquired; and

17 (3) Is made available for viewing by the public or  
18 prospective purchasers, or both, within 2 years after it is acquired,  
19 whether or not a fee is charged for viewing it and whether or not it is  
20 also used for purposes other than viewing.

21 (d) "Public display" means the display of a work of fine art  
22 where members of the public have access to the work of fine art for  
23 viewing during publicly advertised hours. The term does not include  
24 the display of a work of fine art in an area where the public does not  
25 generally have access, including, without limitation, a private office,  
26 hallway or meeting room of a business, a room of a business used  
27 for private lodging and a private residence.

28 (e) "Pupil" means a person who:

29 (1) Is enrolled for the current academic year in a public  
30 school as defined in NRS 385.007 or a private school as defined in  
31 NRS 394.103; or


32 (2) Receives instruction in a home and is excused from  
33 compulsory attendance pursuant to NRS 392.070.

34 (f) "Student" means a person who is enrolled for the current  
35 academic year in:

36 (1) A community college or university; or

37 (2) A licensed postsecondary educational institution as  
38 defined in NRS 394.099 and a course concerning fine art.

39 **Sec. 2.** NRS 361.159 is hereby amended to read as follows:

40 361.159 1. Except as otherwise provided in subsection 3   
41 *and paragraph (l) of subsection 1 of NRS 361.068*, when personal  
42 property, or a portion of personal property, which for any reason is  
43 exempt from taxation is leased, loaned or otherwise made available  
44 to and used by a natural person, association or corporation in  
45 connection with a business conducted for profit, the leasehold



1 interest, possessory interest, beneficial interest or beneficial use of  
2 any such lessee or user of the property is subject to taxation to the  
3 extent the:

4 (a) Portion of the property leased or used; and

5 (b) Percentage of time during the fiscal year that the property is  
6 leased to the lessee or used by the user, in accordance with  
7 NRS 361.2275,

8 ↪ can be segregated and identified. The taxable value of the interest  
9 or use must be determined in the manner provided in subsection 3 of  
10 NRS 361.227 and in accordance with NRS 361.2275.

11 2. Taxes must be assessed to lessees or users of exempt  
12 personal property and collected in the same manner as taxes  
13 assessed to owners of other personal property, except that taxes due  
14 under this section do not become a lien against the personal  
15 property. When due, the taxes constitute a debt due from the lessee  
16 or user to the county for which the taxes were assessed and, if  
17 unpaid, are recoverable by the county in the proper court of the  
18 county.

19 3. The provisions of this section do not apply to personal  
20 property:

21 (a) Used in vending stands operated by persons who are blind  
22 under the auspices of the Bureau of Services to Persons Who Are  
23 Blind or Visually Impaired of the Rehabilitation Division of the  
24 Department of Employment, Training and Rehabilitation.

25 (b) Owned by a public airport and used for the purposes of the  
26 public airport.

27 **Sec. 3.** This act becomes effective on July 1, 2019.







