

Legislative Analysis



INDUSTRIAL PROCESSING EXEMPTION FOR ALCOHOLIC BEVERAGES SOLD AT RETAIL AT PRODUCERS' OWN LOCATIONS

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Senate Bill 369 (S-2) as passed by the Senate
Sponsor: Sen. Wayne Schmidt

Senate Bill 370 (S-2) as passed by the Senate *(Enacted as Public Acts 204 & 205 of 2015)*
Sponsor: Sen Jack Brandenburg

House Committee: Tax Policy
Senate Committee: Commerce
Complete to 10-13-15

SUMMARY:

The bills would provide an exemption from the state sales and use taxes for tangible personal property used or consumed in an industrial processing activity to produce alcoholic beverages that are sold at retail by that industrial processor through its own locations.

Senate Bills 369 would amend the Use Tax Act (MCL 205.94o). Senate Bill 370) would amend the General Sales Tax Act (MCL 205.54t). The bills are tie-barred to each other, meaning that neither could take effect unless both are enacted.

Currently, both acts specifically say that the industrial processing exemption does not apply to tangible personal property used for the preparation of food or beverages by a retailer for ultimate sale at retail through its own locations. These two bills would make an exception for producers of alcoholic beverages. (That term is understood to include beer, wine, and spirits.)

Presumably, breweries, wineries, and distilleries are eligible for this exemption now for those products that are sold at retail away from their own premises but not when they are acting as a retailer and selling their products through their own locations.

[Under the sales and use tax acts, the industrial processing applies to property *used or consumed* in the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail. Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage. Generally speaking, this means, among other things, that machinery and equipment used in industrial processing is exempt, as is property sold to manufacturers and processors when that property will become part of a product ultimately sold at retail, such as the materials that become part of an automobile.]

FISCAL IMPACT:

As written, the bills would be expected to reduce sales and use tax revenue by a relatively small amount, probably less than \$1.0 million. The majority of the impact would fall on the School Aid Fund, which receives about 73% of sales tax revenue and 36% of use tax revenue.

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell

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