



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

April 7, 2011

MEMORANDUM

To: Representative LeMahieu

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2011 AB 49** (LRB-1145/1) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 21, 2011

TO: Joe Kreye, Senior Attorney
Legislative Reference Bureau

FROM: Paul Ziegler
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 49, relating to a sales and use tax exemption for snowmaking and snow grooming machines and equipment

The bill applies the definition of "manufacturing" to include snowmaking and snow grooming operations at ski resorts such as ski hills, ski slopes, and ski trails.

The Department of Revenue has the following concerns with the bill:

1. Under current law, snow making by ski resorts is already included in the definition of "manufacturing," and henceforth is excluded from sales or use taxation. The language defining snow making in the bill as "manufacturing" is not therefore necessary (and serves only to codify the department's current treatment of this process).
2. Under current law, ski resorts must pay sales or use tax on their purchases of snow grooming equipment, including repair parts and attachments. Moreover, snow grooming activities are not "manufacturing" within the meaning of that term as defined in sec. 77.51(7h)(a) and as reflected in the decision in the case of: *Engel dba Sunburst Snowtubing and Recreation Park, LLC v. Wisconsin Department of Revenue*, (Wisconsin Tax Appeals Commission, No. 07-S-168, May 27, 2008).

Instead of exempting snow grooming equipment through the manufacturer's machinery and equipment exemption, the author of the bill may consider creating a specific new exemption for snow grooming equipment which is used by ski resorts. This treatment would be similar to the exemption provided under s.77.54 (38) for snowmobile trail grooming equipment.

An exemption for snow grooming equipment could specifically:

- a. include repair parts and replacements and safety attachments for such machines and equipment,
- b. require exclusive and direct use of those items in snow grooming activities by the ski hill, and
- c. include the fuel and electricity used in operating these machines in snow grooming activities.

If you have any questions regarding this technical memorandum, please contact Bob Schmidt at (608) 267-9892 or Robertk1.Schmidt@revenue.wi.gov

cc: Representative LeMahieu