



1997 SENATE BILL 429

February 3, 1998 - Introduced by Senator DRZEWIECKI, cosponsored by Representative GARD. Referred to Committee on Economic Development, Housing and Government Operations.

1 **AN ACT to amend** 77.52 (13) and 77.53 (10) of the statutes; **relating to:**
2 certificates for the sales and use tax exemption for certain commodities in
3 warehouses.

Analysis by the Legislative Reference Bureau

Under current law, if certain requirements are fulfilled, commodities in warehouses are not subject to the use tax exemption certificate requirement. The bill changes the requirements that the goods be held for resale to a requirement that they be held for sale and changes the requirement that the contract for their sale be subject to a commodity market to a requirement that the contract be subject to the rules of a commodity market. The bill also creates a similar exception to the sales tax exemption certificate requirement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 77.52 (13) of the statutes is amended to read:
5 **77.52 (13)** For the purpose of the proper administration of this section and to
6 prevent evasion of the sales tax it shall be presumed that all receipts are subject to

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1 the tax until the contrary is established. The burden of proving that a sale of tangible
2 personal property or services is not a taxable sale at retail is upon the person who
3 makes the sale unless that person takes from the purchaser a certificate to the effect
4 that the property or service is purchased for resale or is otherwise exempt; except
5 that no certificate is required for sales of commodities, as defined in 7 USC 2, that
6 are consigned for sale in a warehouse in or from which the commodity is deliverable
7 on a contract for future delivery subject to the rules of a commodity market regulated
8 by the U.S. commodity futures trading commission if upon the sale the commodity
9 is not removed from the warehouse.

10 **SECTION 2.** 77.53 (10) of the statutes, as affected by 1997 Wisconsin Act 27, is
11 amended to read:

12 77.53 (10) For the purpose of the proper administration of this section and to
13 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
14 tangible personal property or taxable services sold by any person for delivery in this
15 state is sold for storage, use or other consumption in this state until the contrary is
16 established. The burden of proving the contrary is upon the person who makes the
17 sale unless that person takes from the purchaser a certificate to the effect that the
18 property or taxable service is purchased for resale, or otherwise exempt from the tax;
19 except that no certificate is required for sales of commodities, as defined in 7 USC
20 2, that are consigned for resale sale in a warehouse in or from which the commodity
21 is deliverable on a contract for future delivery subject to the rules of a commodity
22 market regulated by the U.S. commodity futures trading commission if upon the sale
23 the commodity is not removed from the warehouse.

24 (END)