

1999 DRAFTING REQUEST

Bill

Received: 12/15/1999

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: jim

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

sales and use tax exemption for motor vehicles used for recycling and for equipment used in collection of waste for recycling

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|------------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /1 | jkreye 12/15/1999 | wjackson 12/16/1999 | martykr 12/16/1999 | _____ | lrb_docadmin 12/16/1999 | | S&L Tax |
| | jkreye 02/04/2000 | wjackson 02/07/2000 | | _____ | | | |
| /2 | jkreye 03/06/2000 | wjackson 03/06/2000 | jfrantze 02/07/2000 | _____ | lrb_docadmin | | S&L Tax |
| /3 | | | jfrantze 03/06/2000 | _____ | | docadmin | S&L Tax |

PA's - send out
for new FE
if bill goes
to "14"

FE Sent For:

(03-06-00)
"13"

<END>

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| | jkreye 02/04/2000 | wjackson 02/07/2000 | | _____ | | | |
| /2 | | 13 3/6 WLJ | jfrantze 02/07/2000 | _____ | lrb_docadmin 02/07/2000 | | S&L Tax |

FE Sent For:

03/6 *Self*
3/6
<END>

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|--------------|----------------------|------------------------|-----------------------|----------------|----------------------------|-----------------|-----------------|
| /1 | jkreye 12/15/1999 | wjackson 12/16/1999 | martykr 12/16/1999 | _____ | lrb_docadmin 12/16/1999 | | S&L Tax |

h wlj 2/7 *to 2/7* *to/llh*
2/7
 <END>

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|--------------|----------------|-----------------|------------------|------------------|------------------|-----------------|-----------------|
| /? | jkreye | | <i>Jim 12/16</i> | <i>Jim 12/14</i> | | | |

FE Sent For:

<END>

12-15-99

Sen. Loyich

266-5400

Jim

77.54(5)(c)

& (26m)

"collection" of

need a definition of where / when "collection" begin & ends? — not necessarily.

"collection" and transportation?

* want bins, carts, etc — when owned by the recycler and provided to 3d party
* and trucks used to transport collected to recycler premises.

may contact Robert Mellish, Jr. DOR.

amend both 77.54(5)(c) & (26m)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-40947

JK: /: ...
WJ
RMK

in 12-16-99

SOON

gen

1 AN ACT ...; relating to: the sales tax and use tax exemptions for motor vehicles
2 used for recycling activities and for equipment used to collect and transport
3 waste for recycling activities.

Analysis by the Legislative Reference Bureau

Under current law, a motor vehicle that is not required to be licensed for highway use and that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax. Under this bill, a motor vehicle that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax, regardless of whether or not the motor vehicle is required to be licensed for highway use.

Under current law, waste recycling machinery and equipment that is used for recycling is exempt from the sales tax and the use tax. The court of appeals has held that equipment that is used in the collection of waste materials is not exempt from the sales tax and the use tax. See *Department of Revenue v. Parks-Pioneer Corporation*, 170 Wis.2d 44 (Ct. App. 1992). Under the bill, machinery and equipment that is used for waste collection and transportation is exempt from the sales tax and the use tax.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

1 **SECTION 1.** 77.54 (5) (c) ✓ of the statutes is amended to read:

2 77.54 (5) (c) Motor vehicles ~~which are not required to be licensed for highway~~

3 ~~use and which~~ ^{that} are exclusively and directly used in conjunction with waste reduction

4 or recycling activities which reduce the amount of solid waste generated, reuse solid

5 waste, recycle solid waste, compost solid waste or recover energy from solid waste.

6 For the purposes of this paragraph, "solid waste" means garbage, refuse, sludge or

7 other materials or articles, whether these materials or articles are discarded or

8 purchased, including solid, semisolid, liquid or contained gaseous materials or

9 articles resulting from industrial, commercial, mining or agricultural operations or

10 from domestic use or from public service activities.

11 **SECTION 2.** 77.54 (26m) ✓ of the statutes is amended to read:

12 77.54 (26m) The gross receipts from the sale of and the storage, use or other

13 consumption of waste reduction or recycling machinery and equipment, including

14 parts therefor, exclusively and directly used for waste collection and transportation,

15 waste reduction or waste recycling activities which reduce the amount of solid waste

16 generated, reuse solid waste, recycle solid waste, compost solid waste or recover

17 energy from solid waste. The exemption applies even though an economically useful

18 end product results from the use of the machinery and equipment. For the purposes

19 of this subsection, "solid waste" means garbage, refuse, sludge or other materials or

20 articles, whether these materials or articles are discarded or purchased, including

21 solid, semisolid, liquid or contained gaseous materials or articles resulting from

22 industrial, commercial, mining or agricultural operations or from domestic use or

23 from public service activities.

24 **SECTION 3. Effective date.**

Kreye, Joseph

From: Stellick, Robert C, Jr.
Sent: Tuesday, January 04, 2000 4:37 PM
To: Lazich, Mary; Kreye, Joseph; Ourada, Thomas D
Cc: Johnson, Craig T; Weinberger, Marc; Gates-Hendrix, Sherrie
Subject: FW: LRB--4094/1; recycling and waste reduction exemptions for Sales/Use Taxes

I have been informed that my previous e-mail may not have been capable of being opened. I am resending the same attachment, but with a different name (I used periods in the date at the end that the computer may have treated as a suffix, I am told).



LRB 4094; recycling
and waste ...

-----Original Message-----

From: Stellick, Robert C, Jr.
Sent: Tuesday, January 04, 2000 2:45 PM
To: Lazich, Mary; Kreye, Joseph; Ourada, Thomas D
Cc: Johnson, Craig T; Weinberger, Marc; Gates-Hendrix, Sherrie
Subject: LRB--4094/1; recycling and waste reduction exemptions for Sales/Use Taxes

Craig Johnson and I have reviewed this first draft. Here are my comments, which reflect Craig's also.



LRB 4094; recycling
and waste ...

6-5700 Sen. David

DATE: January 4, 2000

TO: Senator Mary A. Lazich and Attorney Joseph T. Kreye

FROM: Robert C. Stellick, Jr.

SUBJECT: LRB-4094

This draft does not reflect the concept of creating an exemption for recyclers, as discussed. This was a concern because if the current statutory language is merely broadened, it will allow nonrecyclers to obtain exemption, thus costing the State more. Additionally, I believe the revision to (5)(c) may be ineffective, as proposed.

As currently written, (5)(c) no longer applies to non-highway licensed vehicles. However, all vehicles must still be used in conjunction with waste reduction or recycling activities that reduce the amount of solid waste generated, reuse solid waste, etc. In *Parks-Pioneer*, the Court of Appeals determined that collection and transportation was not a recycling activity. The change to (5)(c) does not alter that determination, so the trucks used to transport bins of materials will still not qualify. The addition of "waste collection and transportation" in (26m) adds those activities as qualifying activities, but only for (26m). I would suggest adding the same (26m) language changes to (5)(c), thus exempting the collection and transportation vehicles.

However, if that suggestion is done, the mere collection and transportation of solid waste will become exempt activities, so all garbage trucks would qualify for exemption, even if the collected solid waste is transported immediately to a landfill. This would accomplish no "waste reduction or recycling" function, nor does it limit the expansion to recycling entities, as desired. That is why the suggestion was made that a third exemption, specific to entities doing recycling, be created. I still see the third exemption route as the better way to accomplish the desired ends. The problem I see is in crafting an acceptable definition of "recycler"—use SIC code; some registration with DNR or DOT; use % of gross receipts or revenue; % of assets devoted to recycling activities; other?

As currently written, (26m) allows an exemption for all waste collection and transportation machinery and equipment. Again, this would be difficult to enforce and too broad. When a homeowner buys a waste container intended for use exclusively and directly for solid waste collection, it would be exempt under this language. As would be the cart purchased to transport garbage cans to the street.

1999 BILL

in 2-4-2000

D-N

re gen

1 **AN ACT to amend 77.54 (5) (c) and 77.54 (26m) of the statutes; relating to:** the
 2 **sales tax and use tax exemptions for motor vehicles used for recycling activities**
 3 **and for equipment used to collect and transport waste for recycling activities.**
 4

Analysis by the Legislative Reference Bureau

Under current law, a motor vehicle that is not required to be licensed for highway use and that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax. Under this bill, a motor vehicle that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax, regardless of whether or not the motor vehicle is required to be licensed for highway use.

Under current law, waste recycling machinery and equipment that is used for recycling is exempt from the sales tax and the use tax. The court of appeals has held that equipment that is used in the collection of waste materials is not exempt from the sales tax and the use tax. See *Department of Revenue v. Parks-Pioneer Corporation*, 170 Wis.2d 44 (Ct. App. 1992). Under the bill, machinery and equipment that is used for waste collection and transportation is exempt from the sales tax and the use tax.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

related to recycling activities

BILL

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

INSERT A J

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

are used by a recycler and that

1 SECTION 1. 77.54 (5) (c) of the statutes is amended to read:

2 77.54 (5) (c) Motor vehicles ~~which are not required to be licensed for highway~~

3 ~~use and which that~~ are exclusively and directly used in conjunction with waste

4 reduction or recycling activities which reduce the amount of solid waste generated,

, including waste collection and transportation

5 reuse solid waste, recycle solid waste, compost solid waste or recover energy from

6 solid waste. For the purposes of this paragraph, "solid waste" means garbage, refuse,

7 sludge or other materials or articles, whether these materials or articles are

8 discarded or purchased, including solid, semisolid, liquid or contained gaseous

9 materials or articles resulting from industrial, commercial, mining or agricultural

10 operations or from domestic use or from public service activities.

11 SECTION 2. 77.54 (26m) of the statutes is amended to read:

12 77.54 (26m) The gross receipts from the sale of and the storage, use or other

13 consumption of waste reduction or recycling machinery and equipment, including

14 parts therefor, ~~exclusively and directly used for~~ *used by a recycler and*

waste collection and transportation.

15 waste reduction or waste recycling activities which reduce the amount of solid waste

16 generated, reuse solid waste, recycle solid waste, compost solid waste or recover

17 energy from solid waste. The exemption applies even though an economically useful

18 end product results from the use of the machinery and equipment. For the purposes

19 of this subsection, "solid waste" means garbage, refuse, sludge or other materials or

20 articles, whether these materials or articles are discarded or purchased, including

21 solid, semisolid, liquid or contained gaseous materials or articles resulting from

BILL

1 industrial, commercial, mining or agricultural operations or from domestic use or
2 from public service activities.

3 **SECTION 3. Effective date.**

4 (1) This act takes effect on first day of the 2nd month beginning after
5 publication.

6 (END)

INSERT A

Sec #, or; 77.51(12m)⁴/₃

77.51(12m)[ⓑ] "Recycler" means a person engaged in recycling activities, including activities that are classified under industry ^{numbers} 42193 and 56292 of the North American Industry Classification System manual, 1997 edition, published by the U.S. office of management and budget

4094/2dn
VK: Wlj:

D-N
February 9, 2000

4 This draft is based on the suggestions
made in Robert Stellick's memo, dated
January 4, 2000. Please contact me if
you have any questions.

VK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4094/2dn
JK:wlj:jf

February 7, 2000

This draft is based on the suggestions made in Robert Stellick's memo, dated January 4, 2000. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

Kreye, Joseph

From: Gehrke, Jim
Sent: Friday, March 03, 2000 3:07 PM
To: Kreye, Joseph
Subject: RE: LRB-4094/2

I spoke with Rob Stellick. He is looking at the draft. He spotted a technical problem with the draft. It uses the U.S. Standard Classification (SIC) system numbering, but refers to the North American Industry Classification System. Please redraft as soon as possible to correct this problem. Either it needs to refer to the SIC system or use the new numbers. The draft currently has 42193 and 56292 (page 2, line 3). The NAICS numbers are 421930 and 562920. Thanks.

-----Original Message-----

From: Kreye, Joseph
Sent: Friday, March 03, 2000 9:31 AM
To: Gehrke, Jim
Subject: RE: LRB-4094/2

I have to defer that question to the department of revenue. You may wish to speak with Robert Stellick.

Joseph T. Kreye, Legislative Attorney
Legislative Reference Bureau
(608) 266-2263
joseph.kreye@legis.state.wi.us

-----Original Message-----

From: Gehrke, Jim
Sent: Friday, March 03, 2000 9:23 AM
To: Kreye, Joseph
Subject: LRB-4094/2
Importance: High

Quick question -- I hope. Mary is concerned that LRB-4094/2 might inadvertently remove exemptions for some people. Is there any realistic way this bill's language might remove someone's exemption? Thanks.

Jim Gehrke
Office of Senator Mary Lazich
Wisconsin State Senate
(608)266-5400



3

1999 BILL

m 3-6-2000

Today

Regen

1 AN ACT ~~to amend~~ ^{Regen} 77.54 (5) (c) and 77.54 (26m); and **to create** 77.51 (12m) of the

2 statutes; **relating to:** the sales tax and use tax exemptions for motor vehicles

3 used for recycling activities and for equipment used to collect and transport

4 waste for recycling activities.

Analysis by the Legislative Reference Bureau

Under current law, a motor vehicle that is not required to be licensed for highway use and that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax. Under this bill, a motor vehicle that is used for waste reduction or recycling activities is exempt from the sales tax and the use tax, regardless of whether or not the motor vehicle is required to be licensed for highway use.

Under current law, waste recycling machinery and equipment that is used for recycling is exempt from the sales tax and the use tax. The court of appeals has held that equipment that is used in the collection of waste materials is not exempt from the sales tax and the use tax. See *Department of Revenue v. Parks-Pioneer Corporation*, 170 Wis.2d 44 (Ct. App. 1992). Under the bill, machinery and equipment that is used for waste collection and transportation related to recycling activities is exempt from the sales tax and the use tax.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

BILL

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:

1 **SECTION 1.** 77.51 (12m) of the statutes is created to read:

2 77.51 (12m) "Recycler" means a person engaged in recycling activities,
3 including activities that are classified under industry numbers ~~42193~~ and ~~36292~~ of
4 the North American Industry Classification System Manual, 1997 edition, published
5 by the U.S. office of management and budget.

6 **SECTION 2.** 77.54 (5) (c) of the statutes is amended to read:

7 77.54 (5) (c) Motor vehicles ~~which are not required to be licensed for highway~~
8 ~~use and which~~ that are used by a recycler and that are exclusively and directly used
9 in conjunction with waste reduction or recycling activities, including waste collection
10 and transportation, which reduce the amount of solid waste generated, reuse solid
11 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
12 For the purposes of this paragraph, "solid waste" means garbage, refuse, sludge or
13 other materials or articles, whether these materials or articles are discarded or
14 purchased, including solid, semisolid, liquid or contained gaseous materials or
15 articles resulting from industrial, commercial, mining or agricultural operations or
16 from domestic use or from public service activities.

17 **SECTION 3.** 77.54 (26m) of the statutes is amended to read:

18 77.54 (26m) The gross receipts from the sale of and the storage, use or other
19 consumption of waste reduction or recycling machinery and equipment, including
20 parts therefor, used by a recycler and exclusively and directly used for waste
21 collection and transportation, waste reduction or waste recycling activities which

BILL

1 reduce the amount of solid waste generated, reuse solid waste, recycle solid waste,
2 compost solid waste or recover energy from solid waste. The exemption applies even
3 though an economically useful end product results from the use of the machinery and
4 equipment. For the purposes of this subsection, "solid waste" means garbage, refuse,
5 sludge or other materials or articles, whether these materials or articles are
6 discarded or purchased, including solid, semisolid, liquid or contained gaseous
7 materials or articles resulting from industrial, commercial, mining or agricultural
8 operations or from domestic use or from public service activities.

9 **SECTION 4. Effective date.**

10 (1) This act takes effect on first day of the 2nd month beginning after
11 publication.

12

(END)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/06/2000

To: Senator Lazich

Relating to LRB drafting number: LRB-4094

Topic

sales and use tax exemption for motor vehicles used for recycling and for equipment used in collection of waste for recycling

Subject(s)

Tax - sales

1. **JACKET** the draft for introduction Sen. Lazich

in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Yes

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

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