

2001 DRAFTING REQUEST

Bill

Received: 11/17/2000

Received By: jkreye

Wanted: As time permits

Identical to LRB: 99 SB 460

For: Mary Lazich (608) 266-5400

By/Representing: jim

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - sales

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Recycling activities

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>
/?	jkreye 11/17/2000	gilfokm 11/22/2000		_____			S&L Tax
/1			pgreensl 11/28/2000	_____	lrb_docadmin 11/28/2000	lrb_docadmin 01/10/2002	

FE Sent For:

Lazich

<END>

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1?	jkreye	1-11/22 King	11/27 PG	11/27 PG/RS			

FE Sent For:

<END>

Kreye, Joseph

From: Gehrke, Jim
Sent: Friday, November 17, 2000 11:37 AM
To: Kreye, Joseph
Subject: Redraft of SB460

Could you please redraft our 1999-2000 SB-460 for reintroduction in the next session? Thank you.

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

1101/1
kmq

1999 SENATE BILL 460

M 11-17-00

March 8, 2000 - Introduced by Senators LAZICH, FARROW and HUELSMAN, cosponsored by Representatives JENSEN and DUFF. Referred to Joint survey committee on Tax Exemptions.

Gen. Col.

1 AN ACT to amend 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 are used for recycling are 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 are used for waste collection and transportation related to recycling activities are 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.

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SENATE BILL 460

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 421930 and 562920
4 of the North American Industry Classification System Manual, 1997 edition,
5 published 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

P.W.F.

SENATE BILL 460

P.W.F.

1 reduce the amount of solid waste generated, reuse solid waste, recycle solid waste,
2 compost solid waste^v 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^v or other materials or articles, whether these materials or articles are
6 discarded or purchased, including solid, semisolid, liquid^v or contained gaseous
7 materials or articles resulting from industrial, commercial, mining^v or agricultural
8 operations or from domestic use or from public service activities.

SECTION 4. Effective date.

9
10 (1) This act takes effect on first day of the 2nd month beginning after
11 publication.

12 (END)

Barman, Mike

From: Kempfert, Kathryn
Sent: Thursday, January 10, 2002 3:15 PM
To: LRB.Legal
Subject: Bill Jacketing

Could you please jacket three LRB bill drafts for us? The drafts are LRB 1101, LRB 1111, and LRB 2870.

Thank you,

Katie
Office of Senator Lazich



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

February 4, 2002

MEMORANDUM

To: Senator Lazich

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

Subject: Technical Memorandum to 2001 SB-382 (LRB-1101/1)

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

January 31, 2002

TO: Joseph T. Kreye
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on SB 382 relating to Expanding the Recycling Equipment Sales and Use Tax Exemption

The Department of Revenue has the following concerns regarding SB 382:

1. At page 2, lines 1-5, "recycler" is ambiguous since it is defined by "recycling activities". The Court of Appeals in Parks-Pioneer construed "recycling activities" as "any activity necessary to the process of converting [scrap metal into reusable metal]". Under that approach, many entities may be engaged in recycling activities such as, for example, garbage collection, cutting grass using a mulching mower or compacting a department store's waste cardboard. The author may wish to adopt a specific definition rather than leave the matter open to dispute and diverse opinion as to the intended meaning.

Alternatively, the new requirement of being a "recycler" under ss. 77.54(5)(c) and (26m) may screen out entities that could otherwise claim an exemption. In addition, it may create a conflict between the requirement of being a "recycler" and the existing language allowing exemption for waste reduction. Since solid waste reduction does not operate on solid waste, it is not "recycling" per se. If the "recycler" requirement is to remain, the author may wish to create a separate exemption for property that reduces the amount of solid waste generated.

2. At page 2, lines 20-21, the bill expands the exemption for machinery and equipment used for waste reduction or recycling activities to include machinery and equipment used for waste collection and transportation. However, the exemption still only applies to machinery and equipment that "reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste". Waste collection and transportation, though necessary steps before recycling can occur, do not perform any of these activities. Adding waste collection and transportation to waste reduction or recycling activities may not eliminate the very requirement that previously was a barrier to exemption and may put the Department and the courts in the position of dealing with the change being a potential nullity.

3. At page 2, line 9, the law requires motor vehicles to be used "in conjunction with" waste reduction or recycling activities, including waste collection and transportation. However, at page 2, line 20, the law requires machinery and equipment to be used directly for waste collection and transportation which reduce the amount of solid waste generated, reuse, recycle or compost solid waste, or recover energy from solid waste. Since collection and transportation machinery and equipment do not perform those activities directly, instead they do them "in conjunction with" other waste reduction or recycling activities.

The author may wish to consider creating a third exemption solely for the waste collection and transportation property of "recyclers", instead of amending the current exemptions. If a new exemption is not created, then eliminating the word "directly" in both (5)(c) and (26m) would accomplish the bill's purpose although it would have the additional effect of broadening the exemption in other ways and increasing the cost.

If you have questions regarding this technical memorandum, please contact Blair P. Kruger at 266-1310 or bkruger@dor.state.wi.us.