

HOUSE BILL 5

Unofficial Copy
Q1

1998 Regular Session
(8lr1185)

ENROLLED BILL

-- *Ways and Means/Budget and Taxation* --

Introduced by **Delegates Hixson, Taylor, Barve, Dewberry, Hurson, Rawlings, Curran, Busch, Guns, Vallario, Harrison, Menes, Kopp, Arnick, Owings, W. Baker, Bozman, E. Burns, Cadden, Conroy, Conway, C. Davis, Dembrow, Doory, Finifter, Franchot, Frank, Frush, Fulton, Goldwater, Hecht, Heller, Howard, Jones, Kagan, Klausmeier, Krysiak, Linton, Love, Mandel, Marriott, McIntosh, V. Mitchell, Morhaim, Nathan-Pulliam, Patterson, Petzold, Pitkin, Preis, Proctor, Rosenberg, Rudolph, Shriver, Slade, Turner, Weir, Wood, and ~~Workman~~ Workman, Donoghue, Valderrama, DeCarlo, McHale, Miller, Healey, Bonsack, McKee, and Cryor**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Property Tax Exemptions - Biotechnology and Computer Software -**
3 **Manufacturing ~~Exemption~~ and Research and Development**

4 FOR the purpose of altering *for property tax purposes* the definition of
5 "manufacturing" ~~for property tax purposes to include certain activities relating~~
6 ~~to biological materials and computer software; providing an exception to~~
7 ~~providing that certain activities described as manufacturing do not qualify for~~
8 ~~an exemption under the property tax for certain property used in research and~~

1 ~~development~~ research and development activities; including certain biological
 2 processes used for research or manufacture within the definition of
 3 manufacturing; including the design, development, or creation of computer
 4 software within the definition of manufacturing; repealing the partial property
 5 tax exemption for property used for research and development activities;
 6 providing for the application of this Act; and generally relating to ~~the~~ property
 7 ~~taxation of certain property used in certain activities relating to biological~~
 8 ~~materials and computer software~~ tax exemptions for property used for
 9 manufacturing and for research and development.

10 BY repealing and reenacting, without amendments,
 11 Article - Tax - Property
 12 Section 1-101(a)
 13 Annotated Code of Maryland
 14 (1994 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article - Tax - Property
 17 Section 1-101(r) ~~and 7-237~~ and (dd) through (ll), inclusive, and 9-205
 18 Annotated Code of Maryland
 19 (1994 Replacement Volume and 1997 Supplement)

20 BY adding to
 21 Article - Tax - Property
 22 Section 1-101(dd)
 23 Annotated Code of Maryland
 24 (1994 Replacement Volume and 1997 Supplement)

25 BY repealing
 26 Article - Tax - Property
 27 Section 7-237
 28 Annotated Code of Maryland
 29 (1994 Replacement Volume and 1997 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article - Tax - Property**

33 1-101.

34 (a) In this article the following words have the meanings indicated.

35 (r) (1) "Manufacturing" means the process of substantially transforming, or
 36 a substantial step in the process of substantially transforming, tangible personal

1 property into a new and different article of tangible personal property by use of labor
2 or machinery.

3 (2) "Manufacturing" includes:

4 ~~(I)~~ ~~the operation of:~~

5 ~~{(i)}~~ ~~1-~~ THE OPERATION OF sawmills, grain mills, or feed mills;
6 ~~and~~

7 ~~{(ii)}~~ ~~2-~~ THE OPERATION OF machinery and equipment used to
8 extract and process minerals, metals, or earthen materials or by-products that result
9 from the extracting or processing;

10 (III) RESEARCH AND DEVELOPMENT ACTIVITIES, WHETHER OR NOT
11 THE COMPANY HAS A PRODUCT FOR SALE;

12 ~~(II)~~ (IV) THE IDENTIFICATION, DESIGN, OR GENETIC
13 ENGINEERING OF BIOLOGICAL MATERIALS FOR SALE OR LICENSE, INCLUDING THE
14 ~~SMALL SCALE DEVELOPMENT OF ORGANISMS OR DERIVATIVE BIOLOGICAL~~
15 ~~MATERIALS FOR RESEARCH APPLICATION OR AS A FINAL PRODUCT FOR A~~
16 ~~BIOLOGICAL OR MOLECULAR PROCESS RESEARCH OR MANUFACTURE; AND~~

17 ~~(III)~~ (V) THE DESIGN, DEVELOPMENT, OR CREATION OF
18 COMPUTER SOFTWARE FOR SALE, LEASE, OR LICENSE, ~~INCLUDING THE ASSEMBLY~~
19 ~~OF MATERIALS OR COMPONENTS TO PRODUCE AN INTEGRATED SYSTEM OR OTHER~~
20 ~~PRODUCT.~~

21 (3) "Manufacturing" does not include:

22 (i) activities that are primarily a service;

23 (ii) activities that are intellectual, artistic, or clerical in nature;

24 ~~{(iii)}~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) AND (III) OF THIS~~
25 ~~SUBSECTION, research and development, as defined under § 7 237 of this article; }~~

26 ~~{(iv)}~~ ~~(II)~~ (III) public utility services, including telephone, gas,
27 electric, water, and steam production services; or

28 ~~{(v)}~~ ~~(IV)~~ (IV) any other activity that would not commonly be
29 considered as manufacturing.

30 (DD) (1) "RESEARCH AND DEVELOPMENT" MEANS:

31 (I) BASIC AND APPLIED RESEARCH IN THE SCIENCES AND
32 ENGINEERING; AND

33 (II) THE DESIGN, DEVELOPMENT, AND GOVERNMENTALLY
34 REQUIRED PREMARKET TESTING OF PROTOTYPES, PRODUCTS, AND PROCESSES.

- 1 (2) "RESEARCH AND DEVELOPMENT" DOES NOT INCLUDE:
- 2 (I) MARKET RESEARCH;
- 3 (II) RESEARCH IN THE SOCIAL SCIENCES, PSYCHOLOGY, OR OTHER
4 NONTECHNICAL ACTIVITIES;
- 5 (III) ROUTINE PRODUCT TESTING;
- 6 (IV) SALES SERVICES;
- 7 (V) TECHNICAL AND NONTECHNICAL SERVICES; OR
- 8 (VI) RESEARCH AND DEVELOPMENT OF A PUBLIC UTILITY.
- 9 [(dd)] (EE) "Resident of the State" includes a domestic corporation.
- 10 [(ee)] (FF) "Semiannual date of finality" means July 1, when assessments may
11 be made for real property that becomes assessable after the immediately preceding date
12 of finality or quarterly date of finality.
- 13 [(ff)] (GG) "State" means:
- 14 (1) a state, possession, or territory of the United States;
- 15 (2) the District of Columbia; or
- 16 (3) the Commonwealth of Puerto Rico.
- 17 [(gg)] (HH) "State property tax" means the tax imposed on property under §
18 6-201 and authorized under §§ 10-102 and 10-103 of this article.
- 19 [(hh)] (II) "Supervisor" means the supervisor of assessments for a county.
- 20 [(ii)] (JJ) "Taxable year" means July 1 to June 30, both inclusive, for which
21 the State, each county, municipal corporation, and taxing district of the State
22 computes, imposes, and collects property tax.
- 23 [(jj)] (KK) "Tax roll" means the assessment roll to which the property tax rate
24 has been applied and on which the property tax on each property is shown.
- 25 [(kk)] (LL) "Valuation" means the process of determining the value of property.
- 26 [(ll)] (MM) "Value" means the full cash value of property.
- 27 ~~7-237.~~
- 28 (a) (†) In this section, "research and development" means:
- 29 (i) basic and applied research in the sciences and engineering; and

1 (ii) the design, development, and governmentally required
2 pre-market testing of prototypes, products, and processes.

3 (2) "Research and development" does not include:

4 (i) market research;

5 (ii) research in the social sciences or psychology and other
6 nontechnical activities;

7 (iii) routine product testing;

8 (iv) sales services;

9 (v) technical and nontechnical services; or

10 (vi) research and development of a public utility; OR

11 (VII) MANUFACTURING ACTIVITIES DESCRIBED IN § 1-101(R)(2)(H)
12 AND (III) OF THIS ARTICLE.

13 (b) (1) ~~[All] SUBJECT TO SUBSECTION (D) OF THIS SECTION, ALL~~
14 ~~machinery, equipment, materials, and supplies are subject to a partial exemption~~
15 ~~from property tax if consumed in or used primarily in research and development.~~

16 (2) The partial exemption granted under this subsection:

17 (i) is equal to the assessment of the property in excess of 50% of the
18 original cost of the property; and

19 (ii) shall apply only to property purchased or transferred into the
20 State after December 31, 1994.

21 (c) (1) ~~[In] SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN addition to~~
22 ~~the partial exemption granted under subsection (b) of this section, the governing body~~
23 ~~of a municipal corporation or county may provide, by law, an exemption from county~~
24 ~~or municipal corporation property tax imposed on all machinery, equipment,~~
25 ~~materials, and supplies if consumed in or used primarily in research and~~
26 ~~development.~~

27 (2) The governing body of the municipal corporation or county may
28 provide, by law:

29 (i) for the amount of the property tax exemption under this
30 subsection; and

31 (ii) for the application of the exemption to property purchased or
32 transferred into the State on or before December 31, 1994, as well as to property
33 eligible for the partial exemption under subsection (b) of this section.

1 (3) The governing body of a municipal corporation or county that enacts
2 ~~an exemption under this subsection shall submit a copy of the law to the Department.~~

3 (4) If the Department receives a copy of the law on or before March 1, the
4 ~~exemption shall be effective for the taxable year following the date the law is enacted.~~

5 ~~(D) (1) AN EXEMPTION UNDER SUBSECTION (B) OR (C) OF THIS SECTION
6 DOES NOT APPLY TO PROPERTY THAT IS EXEMPT FROM PROPERTY TAX UNDER §
7 7-225 OF THIS SUBTITLE.~~

8 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A COUNTY
9 OR MUNICIPAL CORPORATION PROPERTY TAX IF PROPERTY DESCRIBED IN § 7-225 OF
10 THIS SUBTITLE IS SUBJECT TO THE COUNTY OR MUNICIPAL CORPORATION
11 PROPERTY TAX.

12 9-205.

13 (a) The Mayor and City Council of Baltimore City or the governing body of a
14 county or of a municipal corporation may grant, by law, a property tax credit under
15 this section against the county or municipal corporation property tax imposed on part
16 or all of the property of any manufacturing, fabricating, or assembling facility [or real
17 property of a research and development facility] that:

18 (1) locates in the county or municipal corporation;

19 (2) expands in the county or municipal corporation; or

20 (3) develops a new product or industrial process.

21 (b) A property tax credit under this section may be granted on up to 100% of the
22 county or municipal corporation property tax against the property described in
23 subsection (a) of this section.

24 (c) A property tax credit granted under this section may be granted for the
25 period of years from the date of completion of a new facility or expansion of a facility
26 that the Mayor and City Council of Baltimore City or the appropriate governing body
27 determines.

28 (d) The Mayor and City Council of Baltimore City or the appropriate governing
29 body may:

30 (1) adopt regulations necessary to carry out this section; and

31 (2) provide any other restriction or condition considered desirable.

32 (e) The Mayor and City Council of Baltimore City or each governing body shall
33 designate the administrative unit or official to administer the property tax credit
34 granted under this section.

35 (f) When a tax bill is sent to a taxpayer who may be eligible for a property tax
36 credit under this section, the Mayor and City Council of Baltimore City or the

1 appropriate governing body shall give notice of the property tax credit under this
2 section to the taxpayer.

3 (g) (1) A taxpayer must apply to receive a tax credit under this section.

4 (2) Except in Frederick County, if a taxpayer fails to apply for a property
5 tax credit under this section on or before October 1 of each taxable year, the property tax
6 credit may not be granted.

7 (3) In Frederick County, a taxpayer may apply for a property tax credit
8 under this section on or before October 1 of the taxable year, and the property tax credit
9 received shall continue from year to year until the property is conveyed.

10 (4) A taxpayer shall state under oath that the facts in the application are
11 true.

12 (h) Each governing body that grants a property tax credit under this section
13 shall submit to the Department a copy of the law granting the credit.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1998 and shall be applicable to all taxable years beginning after June 30,
16 1999.