

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1431

 By: Hilbert of the House

5 and

6 Pederson of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to agriculture; amending 2 O.S. 2011,
11 Sections 18-241, 18-245, 18-246, 18-251 which relate
12 to the Oklahoma Sorghum Resources Act; updating
13 references to Oklahoma Department of Agriculture,
14 Food, and Forestry; deleting definitions; deleting
15 references to initial election of Oklahoma Sorghum
16 Commission; specifying certain procedures established
17 through Commission bylaws; relocating remaining
18 balance of certain revolving fund; deleting reference
19 to promulgated rules; directing Agricultural
20 Extension Division of Oklahoma State University to
21 designate referendum locations; directing the
22 Governor to issue certain proclamation; repealing 2
23 O.S. 2011, Sections 18-242, as amended by Section 1,
24 Chapter 107, O.S.L. 2013, 18-243, as amended by
 Section 16, Chapter 304, O.S.L. 2012, 18-244, 18-247,
 18-249 and 18-250 (2 O.S. Supp. 2016, Sections 18-242
 and 18-243), which relate to the Oklahoma Sorghum
 Resources Act; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-241, is
24 amended to read as follows:

Section 18-241. As used in the Oklahoma Sorghum Resources Act:

1. "Commercial channels" means the sale of sorghum for any use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any sorghum or product produced from sorghum;

2. "Commercial quantities" means and includes all bushels of sorghum produced for market in any calendar year by any producer;

3. "Commission" means the Oklahoma Sorghum Commission;

4. "Department" means the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry;

5. "First purchaser" means any person buying or acquiring after harvest the property in or to sorghum from a sorghum producer. A mortgagee, pledgee, lienholder, or other person having a claim against the sorghum producer under a nonrecourse loan made against the sorghum after harvest shall be a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee;

~~6. "Fiscal year" means the sorghum accounting year beginning July 1 of each year and ending June 30 of the following year;~~

~~7.~~ "President" means the President of the State Board of Agriculture;

~~8. "Sorghum processor" means a person who commercially manufactures products made from grain sorghum or animal feed; and~~

~~9.~~ 7. "Sorghum producer" ~~or "producer"~~ means an individual engaged in the production of sorghum, who markets sorghum in

1 commercial quantities in Oklahoma. Each individual determined to be
2 an entity pursuant to rules promulgated by the United States
3 Department of Agriculture Farm Service Agency shall be considered a
4 sorghum producer.

5 SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-245, is
6 amended to read as follows:

7 Section 18-245. A. 1. ~~Beginning ninety (90) days after the~~
8 ~~election of the initial Oklahoma Sorghum Commission, there~~ There is
9 hereby assessed a fee of one cent (\$0.01) per bushel upon all
10 sorghum marketed by sorghum producers in this state and sold or
11 handled through commercial channels. The fee shall be assessed and
12 imposed upon the sorghum producer at the time of sale or delivery
13 and shall be collected and remitted by the first purchaser to the
14 Commission. Pursuant to the provisions of the Oklahoma Sorghum
15 Resources Act, no sorghum shall be subject to assessment of a fee
16 more than once.

17 2. No assessments for sorghum shall be collected in accordance
18 with this section while a national checkoff program for sorghum
19 established pursuant to 7 CFR 1221 remains in effect. The
20 collection of assessments in accordance with this section shall be
21 reinstated upon suspension or termination of the program for sorghum
22 established pursuant to 7 CFR 1221.

1 B. 1. The first purchaser shall collect the assessment by
2 deducting the appropriate amount from the purchase price of the
3 sorghum or from any funds advanced for that purpose.

4 2. The Commission, by registered or certified mail, shall
5 notify each first purchaser of the duty to collect the assessment,
6 the manner in which the assessment is to be collected, and the date
7 on or after which the first purchaser is to begin collecting the
8 assessment.

9 3. The amount of the assessment collected shall be clearly
10 shown on the sales invoice or other document evidencing the
11 transaction. The first purchaser shall furnish a copy of the
12 document to the sorghum producer.

13 4. The Commission shall establish, ~~by rule,~~ through bylaws the
14 procedures for the collection and remittance of the assessment.

15 C. Any unexpended balance contained in the revolving fund for
16 the Oklahoma Sorghum Commission as of November 1, 2017, shall be
17 transferred and deposited to the credit of the General Revenue Fund
18 of the State Treasury.

19 SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-246, is
20 amended to read as follows:

21 Section 18-246. A. The first purchaser shall render and have
22 on file a report along with remittance of the fees collected
23 pursuant to the Oklahoma Sorghum Resources Act on the fifteenth of
24 each calendar quarter. The report shall include the total amount of

1 fees assessed by the first purchaser, the total amount of sorghum
2 purchased and other information as may be required by the Oklahoma
3 Sorghum Commission.

4 B. If the first purchaser fails to make a report and remittance
5 as required by the Oklahoma Sorghum Resources Act, the Commission
6 shall determine the amount collected and owed by the first
7 purchaser, which shall be prima facie correct. Any first purchaser
8 having failed to make the report as required by the Oklahoma Sorghum
9 Resources Act shall, within ten (10) days after notice of the
10 computed collection amount established by the Commission is mailed
11 to the first purchaser, pay the computed collection amount, together
12 with a penalty of five percent (5%) of the computed collection
13 amount. The first purchaser may dispute the computed collection
14 amount established by the Commission and request the Commission to
15 hold a hearing to redetermine the amount of the computed collection
16 and the penalty to be imposed. No payment shall be made until the
17 Commission enters its order determining the amount of payment. The
18 payment of the determined collection amount and penalty shall be
19 paid within ten (10) days of notice of the decision.

20 C. At any time the ~~State~~ Oklahoma Department of Agriculture,
21 Food, and Forestry may request an audit of the first purchaser to
22 determine whether the collection and proper disposition of the
23 collected assessment were made pursuant to the provisions of the
24 Oklahoma Sorghum Resources Act ~~and rules promulgated thereto.~~

1 D. The first purchaser shall retain any records or reports
2 relating to the collection of the assessment for at least three (3)
3 years.

4 SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-251, is
5 amended to read as follows:

6 Section 18-251. A. Sorghum producers may petition for a
7 referendum to determine if the assessment is to be continued, at any
8 time ~~after five (5) years following November 1, 1997.~~ The President
9 of the State Board of Agriculture shall call and conduct a
10 referendum if the petitions bear signatures of ten percent (10%) of
11 the sorghum producers. No more than one referendum shall be
12 conducted in any one thirty-six-month period. The ~~State~~ Oklahoma
13 Department of Agriculture, Food, and Forestry shall determine if the
14 petition bears the required number of valid signatures. The
15 President shall announce the referendum at least thirty (30) days
16 prior to the day of voting. At least thirty (30) days before the
17 referendum, the Department shall mail a notice of the referendum to
18 all known sorghum producers in the State of Oklahoma who market
19 sorghum in commercial quantities. The notice shall specify the
20 dates, times, and places for holding the referendum, and shall
21 include a sample ballot with the following wording:

22 DO YOU FAVOR A CONTINUATION OF THE ONE CENT (\$0.01) PER BUSHEL
23 ASSESSMENT ON SORGHUM MARKETING IN OKLAHOMA FOR UTILIZATION,
24 RESEARCH, EDUCATION, PROMOTION, AND MARKET DEVELOPMENT?

YES ()

NO ()

B. Places within each county for conducting the referendum shall be designated by the ~~Oklahoma Sorghum Commission~~ Agricultural Extension Division of Oklahoma State University, and voting in each county shall be supervised by the county agricultural extension agent, or person designated by the Department. The Oklahoma Sorghum Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns. Certified results of the referendum in each district shall be transmitted within twenty-four (24) hours after voting ends to the President, and the ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

C. 1. The results of the referendum shall be determined by the President, and the results certified to the ~~Chair of the Commission~~ Governor who shall issue a proclamation declaring the results.

2. The Commission shall bear expenses of advertising and conducting the referendum.

D. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the sorghum producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

1 SECTION 5. REPEALER 2 O.S. 2011, Sections 18-242, as
2 amended by Section 1, Chapter 107, O.S.L. 2013, 18-243 as amended by
3 Section 16, Chapter 304, O.S.L. 2012, 18-244, 18-247, 18-249 and 18-
4 250 (2 O.S. Supp. 2016, Sections 18-242 and 18-243), are hereby
5 repealed.

6 SECTION 6. This act shall become effective November 1, 2017.
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8 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
9 dated 02/14/2017 - DO PASS, As Coauthored.
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