

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1431

By: Hilbert

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2011, Sections 18-241, 18-245, 18-246, 18-251 which relate to the Oklahoma Sorghum Resources Act; updating references to Oklahoma Department of Agriculture, Food, and Forestry; deleting definitions; deleting references to initial election of Oklahoma Sorghum Commission; specifying certain procedures established through Commission bylaws; relocating remaining balance of certain revolving fund; deleting reference to promulgated rules; directing Agricultural Extension Division of Oklahoma State University to designate referendum locations; directing the Governor to issue certain proclamation; repealing 2 O.S. 2011, Sections 18-242, as amended by Section 1, 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.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-241, is 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,

1 or to any person, public or private, who resells any sorghum or
2 product produced from sorghum;

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

5 3. "Commission" means the Oklahoma Sorghum Commission;

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

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

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

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

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

20 ~~9.~~ 7. "Sorghum producer" ~~or "producer"~~ means an individual
21 engaged in the production of sorghum, who markets sorghum in
22 commercial quantities in Oklahoma. Each individual determined to be
23 an entity pursuant to rules promulgated by the United States
24

1 Department of Agriculture Farm Service Agency shall be considered a
2 sorghum producer.

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

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

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

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

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

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

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

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

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

18 Section 18-246. A. The first purchaser shall render and have
19 on file a report along with remittance of the fees collected
20 pursuant to the Oklahoma Sorghum Resources Act on the fifteenth of
21 each calendar quarter. The report shall include the total amount of
22 fees assessed by the first purchaser, the total amount of sorghum
23 purchased and other information as may be required by the Oklahoma
24 Sorghum Commission.

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

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

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

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

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

DO YOU FAVOR A CONTINUATION OF THE ONE CENT (\$0.01) PER BUSHEL
ASSESSMENT ON SORGHUM MARKETING IN OKLAHOMA FOR UTILIZATION,
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

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

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

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

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

22 SECTION 5. REPEALER 2 O.S. 2011, Sections 18-242, as
23 amended by Section 1, Chapter 107, O.S.L. 2013, 18-243 as amended by
24 Section 16, Chapter 304, O.S.L. 2012, 18-244, 18-247, 18-249 and 18-

1 250 (2 O.S. Supp. 2016, Sections 18-242 and 18-243), are hereby
2 repealed.

3 SECTION 6. This act shall become effective November 1, 2017.

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