

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1101

By: Burns

AS INTRODUCED

An Act relating to sales tax; amending 68 O.S. 2021, Section 1358, which relates to agriculture exemption; modifying definition; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1358, is amended to read as follows:

Section 1358. Exemptions - Agriculture.

A. There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

a. farm, orchard, or garden products, and

b. dairy products sold by a dairy producer or farmer who owns all the cows from which the dairy products offered for sale are produced;

1 provided, the provisions of this paragraph shall not be construed as  
2 exempting sales by florists, nursery operators,    or chicken  
3 hatcheries, or sales of dairy products by any other business except  
4 as set out herein;

5       2. Livestock~~7~~ including cattle, horses, mules or other  
6 domestic or draft animals, sold by the producer by private treaty or  
7 at a special livestock sale;

8       3. Sale of baby chicks, turkey poults and starter pullets used  
9 in the commercial production of chickens, turkeys and eggs~~7i~~  
10 provided that the purchaser certifies, in writing, on the copy of  
11 the invoice or sales ticket to be retained by the vendor that the  
12 pullets will be used primarily for egg production;

13       4. Sale of salt, grains, tankage, oyster shells, mineral  
14 supplements, limestone and other generally recognized animal feeds  
15 for the following purposes and subject to the following limitations:

16           a. feed which is fed to poultry and livestock~~7~~ including  
17 breeding stock and wool-bearing stock, for the purpose  
18 of producing eggs, poultry, milk or meat for human  
19 consumption,

20           b. feed purchased in Oklahoma for the purpose of being  
21 fed to and which is fed by the purchaser to horses,  
22 mules or other domestic or draft animals used directly  
23 in the producing and marketing of agricultural  
24 products, and  
25

1           c.    any stock tonics, water purifying products, stock  
2                sprays, disinfectants, or other such agricultural  
3                supplies.

4           "Poultry" shall not be construed to include any fowl other than  
5   domestic fowl kept and raised for the market or production of eggs.  
6   "Livestock" shall not be construed to include any pet animals such  
7   as dogs, cats, birds, or such other fur-bearing animals. This  
8   exemption shall only be granted and extended where the purchaser of  
9   feed that is to be used and in fact is used for a purpose that would  
10   bring about an exemption hereunder executes an invoice or sales  
11   ticket in duplicate on a form to be prescribed by the Oklahoma Tax  
12   Commission. The purchaser may demand and receive a copy of the  
13   invoice or sales ticket and the vendor shall retain a copy;

14           5.   Sales of items to be and in fact used in the production of  
15   agricultural products. Sale of the following items shall be subject  
16   to the following limitations:

- 17           a.    sales of agricultural fertilizer to any person  
18                regularly engaged, for profit, in the business of  
19                farming or ranching,  
20           b.    sales of agricultural fertilizer to any person engaged  
21                in the business of applying such materials on a  
22                contract or custom basis to land owned or leased and  
23                operated by persons regularly engaged, for profit, in  
24                the business of farming or ranching. In addition to

1 providing the vendor proof of eligibility as provided  
2 in Section 1358.1 of this title, the purchaser shall  
3 provide the name or names of such owner or lessee and  
4 operator and the location of the lands on which said  
5 materials are to be applied to each such land,

6 c. sales of agricultural fertilizer, pharmaceuticals, and  
7 biologicals to persons engaged in the business of  
8 applying such materials on a contract or custom basis  
9 shall not be considered to be sales to contractors  
10 under this article, and said sales shall not be  
11 considered to be taxable sales within the meaning of  
12 the Oklahoma Sales Tax Code. As used in this section,  
13 "agricultural fertilizer", "pharmaceuticals", and  
14 "biologicals" mean any substance sold and used for  
15 soil enrichment or soil corrective purposes or for  
16 promoting the growth and productivity of plants or  
17 animals,

18 d. sales of agricultural seed or plants to any person  
19 regularly engaged, for profit, in the business of  
20 farming or ranching. This section shall not be  
21 construed as exempting from sales tax, seed which is  
22 packaged and sold for use in noncommercial flower and  
23 vegetable gardens, and  
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1 e. sales of agricultural chemical pesticides to any  
2 person regularly engaged, for profit, in the business  
3 of farming or ranching. For the purposes of this  
4 subparagraph, "agricultural chemical pesticides" shall  
5 include any substance or mixture of substances  
6 intended for preventing, destroying, repelling or  
7 mitigating any insect, snail, slug, rodent, bird,  
8 nematode, fungus, weed, or any other form of  
9 terrestrial or aquatic plant or animal life or virus,  
10 bacteria or other microorganism, except viruses,  
11 bacteria or other microorganisms on or in living man,  
12 or any substance or mixture of substances intended for  
13 use as a plant regulator, defoliant, or desiccant.

14 The exemption provided in this paragraph shall only be granted  
15 and extended to the purchaser where the items are to be used and in  
16 fact are used in the production of agricultural products;

17 6. Sale of farm machinery, repair parts thereto or fuel, oil,  
18 lubricants, and other substances used for operation and maintenance  
19 of the farm machinery to be used directly on a farm or ranch in the  
20 production, cultivation, planting, sowing, harvesting, processing,  
21 spraying, preservation or irrigation of any livestock, poultry,  
22 agricultural, or dairy products produced from such lands. The  
23 exemption specified in this paragraph shall apply to such farm  
24 machinery, repair parts, or fuel, oil, lubricants, and other

1 substances used by persons engaged in the business of custom  
2 production, cultivation, planting, sowing, harvesting, processing,  
3 spraying, preservation, or irrigation of any livestock, poultry,  
4 agricultural, or dairy products for farmers or ranchers. The  
5 exemption provided for herein shall not apply to motor vehicles;

6 7. Sales of supplies, machinery, and equipment to persons  
7 regularly engaged in the business of raising evergreen trees for  
8 retail sale in which such trees are cut down on the premises by the  
9 consumer purchasing such tree. This exemption shall only be granted  
10 and extended when the items in fact are used in the raising of such  
11 evergreen trees; and

12 8. Sales of materials, supplies, and equipment to an  
13 agricultural permit holder or to any person with whom the permit  
14 holder has contracted to construct facilities which are or which  
15 will be used directly in the production of any livestock, including,  
16 but not limited to, facilities used in the production and storage of  
17 feed for livestock owned by the permit holder. Any person making  
18 purchases on behalf of the agricultural permit holder shall certify,  
19 in writing, on the copy of the invoice or sales ticket to be  
20 retained by the vendor, that the purchases are made for and on  
21 behalf of such permit holder and set out the name and permit number  
22 of such holder. Any person who wrongfully or erroneously certifies  
23 that purchases are for an agricultural permit holder or who  
24 otherwise violates this subsection shall be guilty of a misdemeanor

1 and upon conviction thereof shall be punishable by a fine of an  
2 amount equal to double the amount of sales tax involved or  
3 imprisonment in the county jail for not more than sixty (60) days or  
4 by both such fine and imprisonment.

5 B. As used in this section and Section 1358.1 of this title:

6 1. "Agricultural products" shall include horses and shall not  
7 include the growing, harvesting, and processing of marijuana as  
8 defined in Section 927.2 of Title 63 of the Oklahoma Statutes; and

9 2. "Ranching" or "ranch" shall include the business, or  
10 facilities for the business, of raising horses.

11 Provided, sales of items at race meetings as defined in Section  
12 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt  
13 pursuant to the provisions of this section and Section 1358.1 of  
14 this title.

15 SECTION 2. This act shall become effective November 1, 2022.

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