

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3637

By: Dempsey

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 1358, which relates to sales tax exemptions for agriculture; expanding definition; defining term; 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

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

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

8           2.   Livestock, including cattle, horses, mules or other domestic  
9 or draft animals, sold by the producer by private treaty or at a  
10 special livestock sale;

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

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

19           a.   feed which is fed to poultry and livestock, including  
20                   breeding stock and wool-bearing stock, for the purpose  
21                   of producing eggs, poultry, milk or meat for human  
22                   consumption,

23           b.   feed purchased in Oklahoma for the purpose of being  
24                   fed to and which is fed by the purchaser to horses,

1 mules or other domestic or draft animals used directly  
2 in the producing and marketing of agricultural  
3 products, and

4 c. any stock tonics, water purifying products, stock  
5 sprays, disinfectants or other such agricultural  
6 supplies.

7 "Poultry" shall not be construed to include any fowl other than  
8 domestic fowl kept and raised for the market or production of eggs.

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

17 5. Sales of items to be and in fact used in the production of  
18 agricultural products. Sale of the following items shall be subject  
19 to the following limitations:

20 a. sales of agricultural fertilizer to any person  
21 regularly engaged, for profit, in the business of  
22 farming or ranching,

23 b. sales of agricultural fertilizer to any person engaged  
24 in the business of applying such materials on a

1 contract or custom basis to land owned or leased and  
2 operated by persons regularly engaged, for profit, in  
3 the business of farming or ranching. In addition to  
4 providing the vendor proof of eligibility as provided  
5 in Section 1358.1 of this title, the purchaser shall  
6 provide the name or names of such owner or lessee and  
7 operator and the location of the lands on which said  
8 materials are to be applied to each such land,

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

21 d. sales of agricultural seed or plants to any person  
22 regularly engaged, for profit, in the business of  
23 farming or ranching. This section shall not be  
24 construed as exempting from sales tax, seed which is

1 packaged and sold for use in noncommercial flower and  
2 vegetable gardens, and

3 e. sales of agricultural chemical pesticides to any  
4 person regularly engaged, for profit, in the business  
5 of farming or ranching. For the purposes of this  
6 subparagraph, "agricultural chemical pesticides" shall  
7 include any substance or mixture of substances  
8 intended for preventing, destroying, repelling or  
9 mitigating any insect, snail, slug, rodent, bird,  
10 nematode, fungus, weed or any other form of  
11 terrestrial or aquatic plant or animal life or virus,  
12 bacteria or other microorganism, except viruses,  
13 bacteria or other microorganisms on or in living man,  
14 or any substance or mixture of substances intended for  
15 use as a plant regulator, defoliant or desiccant.

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

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

1 exemption specified in this paragraph shall apply to such farm  
2 machinery, repair parts or fuel, oil, lubricants and other  
3 substances used by persons engaged in the business of custom  
4 production, cultivation, planting, sowing, harvesting, processing,  
5 spraying, preservation, or irrigation of any livestock, poultry,  
6 agricultural, or dairy products for farmers or ranchers. The  
7 exemption provided for herein shall not apply to motor vehicles;

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

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

1 purchases are for an agricultural permit holder or who otherwise  
2 violates this subsection shall be guilty of a misdemeanor and upon  
3 conviction thereof shall be punishable by a fine of an amount equal  
4 to double the amount of sales tax involved or imprisonment in the  
5 county jail for not more than sixty (60) days or by both such fine  
6 and imprisonment.

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

8 1. "Agricultural products" shall include horses and timber; ~~and~~

9 2. "Farming" or "farm" shall include the production of timber,  
10 seedling production, and forestry management; and

11 3. "Ranching" or "ranch" shall include the business, or  
12 facilities for the business, of raising horses.

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

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

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