

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB3738**

By: Dempsey of the House and Kidd of the Senate

Title: Sales tax; agriculture exemption; modifying definition; defining terms; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**SENATE CONFEREES: GCCA (must be signed out at a Senate GCCA meeting)**

Brooks \_\_\_\_\_

Burns \_\_\_\_\_

Dugger \_\_\_\_\_

Floyd \_\_\_\_\_

Green \_\_\_\_\_

Hall \_\_\_\_\_

Haste \_\_\_\_\_

Hicks \_\_\_\_\_

Howard \_\_\_\_\_

Jech \_\_\_\_\_

Kirt \_\_\_\_\_

Matthews \_\_\_\_\_

Newhouse \_\_\_\_\_

Prieto \_\_\_\_\_

Pugh \_\_\_\_\_

Rader \_\_\_\_\_

Stephens \_\_\_\_\_

Thompson (Kristen) \_\_\_\_\_

Woods \_\_\_\_\_

Rosino \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 3738

By: Dempsey of the House

and

Kidd and Bullard of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to sales tax; amending 68 O.S. 2021,  
Section 1358, which relates to agriculture  
exemptions; modifying definitions; defining terms;  
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:

1           a.     farm, orchard, or garden products, and

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

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

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

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

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

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

1           b.    feed purchased in Oklahoma for the purpose of being  
2                fed to and which is fed by the purchaser to horses,  
3                mules, or other domestic or draft animals used  
4                directly in the producing and marketing of  
5                agricultural products, and

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

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

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

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

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

- b. sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. In addition to providing the vendor proof of eligibility as provided in Section 1358.1 of this title, the purchaser shall provide the name or names of such owner or lessee and operator and the location of the lands on which ~~said~~ such materials are to be applied to each such land,
- c. sales of agricultural fertilizer, pharmaceuticals, and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this article, and ~~said~~ such sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer", "pharmaceuticals", and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals,
- d. sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of

1 farming or ranching. This section shall not be  
2 construed as exempting from sales tax, seed which is  
3 packaged and sold for use in noncommercial flower and  
4 vegetable gardens, and

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

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

21 6. Sale of farm machinery, repair parts thereto or fuel, oil,  
22 lubricants, and other substances used for operation and maintenance  
23 of the farm machinery to be used directly on a farm or ranch in the  
24 production, cultivation, planting, sowing, harvesting, processing,

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

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

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

1 behalf of such permit holder and set out the name and permit number  
2 of such holder. Any person who wrongfully or erroneously certifies  
3 that purchases are for an agricultural permit holder or who  
4 otherwise violates this subsection shall be guilty of a misdemeanor  
5 and, upon conviction thereof, shall be punishable by a fine of an  
6 amount equal to double the amount of sales tax involved or  
7 imprisonment in the county jail for not more than sixty (60) days or  
8 by both such fine and imprisonment.

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

10 1. "Agricultural products" shall include horses and seedlings  
11 of loblolly, longleaf, ponderosa, shortleaf, and slash pine trees  
12 grown for commercial timber; and

13 2. "Farming" or "farm" shall include timber producers;

14 3. "Ranching" or "ranch" shall include the business, or  
15 facilities for the business, of raising horses;

16 4. "Timber" means loblolly, longleaf, ponderosa, shortleaf, and  
17 slash pine trees grown primarily for commercial production of food,  
18 wood, or wood fiber products; and

19 5. "Timber producer" means a person who:

20 a. harvests timber that the person owns and continues to  
21 own until the timber is processed, packed, or  
22 marketed, or

1           b. grows timber, exercises predominant operational  
2           control over the growth of the timber, and bears the  
3           risk of loss of investment in the timber.

4           The term timber producer shall not include a person who harvests  
5           timber primarily for the production of firewood.

6           Provided, sales of items at race meetings as defined in Section  
7 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt  
8 pursuant to the provisions of this section and Section 1358.1 of  
9 this title.

10          SECTION 2. This act shall become effective November 1, 2024.

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12          59-2-11092          JL          05/08/24  
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