

1 ENGROSSED SENATE  
2 BILL NO. 1388

By: Ikley-Freeman and Rader of  
the Senate

3 and

4 Tadlock of the House

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6  
7 An Act relating to sales tax; amending 68 O.S. 2011,  
8 Section 1358, which relates to agricultural sales tax  
9 exemptions; exempting the sale of bee products sold  
by certain beekeepers; updating statutory language;  
and providing an effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1358, is  
14 amended to read as follows:

15 Section 1358. Exemptions - Agriculture.

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

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

22 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, and

4           c.   bee products sold by a beekeeper who owns, possesses,  
5                   controls or manages one or more colonies of bees used  
6                   for the purpose of producing bee products for sale;

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

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

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

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

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

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

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

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

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

21 5. Sales of items to be and in fact used in the production of  
22 agricultural products. Sale of the following items shall be subject  
23 to the following limitations:  
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- 1 a. sales of agricultural fertilizer to any person  
2 regularly engaged, for profit, in the business of  
3 farming or ranching,
- 4 b. sales of agricultural fertilizer to any person engaged  
5 in the business of applying such materials on a  
6 contract or custom basis to land owned or leased and  
7 operated by persons regularly engaged, for profit, in  
8 the business of farming or ranching. In addition to  
9 providing the vendor proof of eligibility as provided  
10 in Section 1358.1 of this title, the purchaser shall  
11 provide the name or names of such owner or lessee and  
12 operator and the location of the lands on which ~~said~~  
13 the materials are to be applied to each such land,
- 14 c. sales of agricultural fertilizer, pharmaceuticals and  
15 biologicals to persons engaged in the business of  
16 applying such materials on a contract or custom basis  
17 shall not be considered to be sales to contractors  
18 under ~~this article,~~ the Oklahoma Sales Tax Code and  
19 ~~said the~~ sales shall not be considered to be taxable  
20 sales within the meaning of the Oklahoma Sales Tax  
21 Code. As used in this section, "agricultural  
22 fertilizer", "pharmaceuticals" and "biologicals" mean  
23 any substance sold and used for soil enrichment or  
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1 soil corrective purposes or for promoting the growth  
2 and productivity of plants or animals,

3 d. sales of agricultural seed or plants to any person  
4 regularly engaged, for profit, in the business of  
5 farming or ranching. This section shall not be  
6 construed as exempting from sales tax, seed which is  
7 packaged and sold for use in noncommercial flower and  
8 vegetable gardens, and

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

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

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

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

20           8. Sales of materials, supplies and equipment to an  
21 agricultural permit holder or to any person with whom the permit  
22 holder has contracted to construct facilities which are or which  
23 will be used directly in the production of any livestock, including,  
24 but not limited to, facilities used in the production and storage of

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

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

14 1. "Agricultural products" shall include horses; and

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

17 Provided, sales of items at race meetings as defined in Section  
18 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt  
19 pursuant to the provisions of this section and Section 1358.1 of  
20 this title.

21 SECTION 2. This act shall become effective November 1, 2020.

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