

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 961

By: Kidd of the Senate

and

Dempsey of the House

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10 COMMITTEE SUBSTITUTE

11 An act relating to sales tax exemptions; amending 68
12 O.S. 2021, Section 1358, which relates to agriculture
13 exemptions; modifying definitions; adding definition
14 for game animals; and providing an effective date.

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

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

19 Section 1358. Exemptions - Agriculture.

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

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

- 3 a. farm, orchard, or garden products, and
- 4 b. dairy products sold by a dairy producer or farmer who
5 owns all the cows from which the dairy products
6 offered for sale are produced;

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
12 domestic or draft animals, sold by the producer by private treaty or
13 at a 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;
16 provided, that the purchaser certifies, in writing, on the copy of
17 the invoice or sales ticket to be retained by the vendor that the
18 pullets will 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 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, and said sales shall not be
19 considered to be taxable sales within the meaning of
20 the Oklahoma Sales Tax Code. As used in this section,
21 "agricultural fertilizer", "pharmaceuticals", and
22 "biologicals" mean any substance sold and used for
23 soil enrichment or soil corrective purposes or for
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1 promoting the growth and productivity of plants or
2 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
5 behalf of such permit holder and set out the name and permit number
6 of such holder. Any person who wrongfully or erroneously certifies
7 that purchases are for an agricultural permit holder or who
8 otherwise violates this subsection shall be guilty of a misdemeanor
9 and upon conviction thereof shall be punishable by a fine of an
10 amount equal to double the amount of sales tax involved or
11 imprisonment in the county jail for not more than sixty (60) days or
12 by both such fine and imprisonment.

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

14 1. "Agricultural products" shall include horses and game
15 animals; and

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

18 3. "Game animals" means animals bred to be hunted for sport or
19 food, but shall not include feral swine, as defined in Section 6-603
20 of Title 2 of the Oklahoma Statutes; and

21 4. "Ranching" or "ranch" shall include the business, or
22 facilities for the business, of raising horses.

23 Provided, sales of items at race meetings as defined in Section
24 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt

1 pursuant to the provisions of this section and Section 1358.1 of
2 this title.

3 SECTION 2. This act shall become effective November 1, 2023.

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