

An Act

ENROLLED HOUSE
BILL NO. 1994

By: Jordan of the House

and

Kidd of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Sections 18-271, 18-275, 18-276, 18-279 and 18-281, which relate to the Oklahoma Oilseed Resources Act; modifying definitions; modifying collection of assessment fee; transferring balance of Oklahoma Oilseed Resources Fund on certain date; modifying referendum to continue assessment; repealing 2 O.S. 2011, Sections 18-272, as amended by Section 1, Chapter 291, O.S.L. 2013, 18-273, as amended by Section 17, Chapter 304, O.S.L. 2012, 18-274 and 18-280 (2 O.S. Supp. 2016, Sections 18-272 and 18-273), which relate to the Oklahoma Oilseed Resources Act; and providing an effective date.

SUBJECT: Oklahoma Oilseed Resources Act

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-271, is amended to read as follows:

Section 18-271. As used in the Oklahoma Oilseed Resources Act:

1. ~~"Canola" means canola, rapeseed and any Brassica plant grown in Oklahoma for the production of an oilseed, the oil and meal of which are used for food or nonfood use;~~

~~2. "Commercial channels" means the sale of oilseed for any use, when sold to any commercial buyer, dealer, processor, cooperative,~~

or to any person, public or private, who resells any oilseed or product produced from oilseed;

~~3.~~ 2. "Commercial quantities" means and includes all hundredweights (CWT) of oilseed produced for market in any calendar year by any producer;

~~4.~~ 3. "Commission" means the Oklahoma Oilseed Commission;

~~5.~~ 4. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

~~6.~~ 5. "First purchaser" means any person buying or acquiring after harvest the property in or to oilseed from an oilseed producer. A mortgagee, pledgee, lienholder, or other person having a claim against the oilseed producer under a nonrecourse loan made against the oilseed after harvest shall be a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee;

~~7.~~ ~~"Fiscal year" means the oilseed accounting year beginning July 1 of each year and ending June 30 of the following year;~~

~~8.~~ 6. "President" means the President of the State Board of Agriculture;

~~9.~~ 7. "Oilseed" means any seed or crop grown primarily or mainly for oil; and

~~10.~~ ~~"Oilseed processor" means a person who commercially manufactures products made from oilseed or animal feed; and~~

~~11.~~ 8. "Oilseed producer" or "producer" means an individual engaged in the production of oilseed, who markets oilseed in commercial quantities in Oklahoma. Each individual determined to be an entity pursuant to rules promulgated by the United States Department of Agriculture Farm Service Agency shall be considered an oilseed producer.

SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-275, is amended to read as follows:

Section 18-275. A. ~~Beginning ninety (90) days after the election of the initial Oklahoma Oilseed Commission, there~~ There is hereby assessed a fee to be determined by each oilseed subcommittee

for oilseed marketed by oilseed producers in this state and sold or handled through commercial channels. The fee shall be assessed and imposed upon the oilseed producer at the time of sale or delivery and shall be collected and remitted by the first purchaser to the Oklahoma Oilseed Commission. Pursuant to the provisions of the Oklahoma Oilseed Resources Act, no oilseed shall be subject to assessment of a fee more than once including a national checkoff. If the assessment of a national checkoff fee ceases to exist, an Oklahoma assessment shall then be implemented.

B. 1. The first purchaser shall collect the assessment by deducting the appropriate amount from the purchase price of the oilseed or from any funds advanced for that purpose.

~~2. The Commission, by registered or certified mail, shall notify each first purchaser of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the first purchaser is to begin collecting the assessment.~~

~~3.~~ The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The first purchaser shall furnish a copy of the document to the oilseed producer.

~~4. The Commission shall establish, by rule, the procedures for the collection and remittance of the assessment.~~

SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-276, is amended to read as follows:

Section 18-276. A. The first purchaser shall render and have on file a report along with remittance of the fees collected pursuant to the Oklahoma Oilseed Resources Act on the fifteenth of each calendar quarter. The report shall include the total amount of fees assessed by the first purchaser, the total amount of oilseed purchased and other information as may be required by the Oklahoma Oilseed Commission.

B. If the first purchaser fails to make a report and remittance as required by the Oklahoma Oilseed Resources Act, the Commission shall determine the amount collected and owed by the first purchaser, which shall be prima facie correct. Any first purchaser having failed to make the report as required by the Oklahoma Oilseed Resources Act shall, within ten (10) days after notice of the

computed collection amount established by the Commission is mailed to the first purchaser, pay the computed collection amount, together with a penalty of five percent (5%) of the computed collection amount. The first purchaser may dispute the computed collection amount established by the Commission and request the Commission to hold a hearing to redetermine the amount of the computed collection and the penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of payment. The payment of the determined collection amount and penalty shall be paid within ten (10) days of notice of the decision.

C. At any time the Oklahoma Department of Agriculture, Food, and Forestry may request an audit of the first purchaser to determine whether the collection and proper disposition of the collected assessment were made pursuant to the provisions of the Oklahoma Oilseed Resources Act ~~and rules promulgated thereto.~~

D. The first purchaser shall retain any records or reports relating to the collection of the assessment for at least three (3) years.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-279, is amended to read as follows:

Section 18-279. ~~A.~~ There is created until November 1, 2017, the Oklahoma Oilseed Resources Fund. The Oklahoma Oilseed Resources Fund shall be administered by the Oklahoma Oilseed Commission for the benefit of the oilseed producers in this state for the purposes specified by the Oklahoma Oilseed Resources Act. The Oklahoma Oilseed Resources Fund shall be established and maintained in a bank or other depository as approved by the Commission and the President of the State Board of Agriculture. Any unexpended balance contained in the revolving fund designated for the Oklahoma Oilseed Commission on November 1, 2017, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury.

~~B. The Oklahoma Oilseed Resources Fund shall consist of:~~

~~1. All monies received by the Commission as proceeds from the assessment imposed pursuant to the Oklahoma Oilseed Resources Act and each individual oilseed shall be distributed by collections to the account of the specific oilseed. The subcommittees established pursuant to Section 4 of this act shall control each individual account;~~

~~2. Interest attributable to investment of money in the Oklahoma Oilseed Resources Fund; and~~

~~3. Monies received by the Commission in the form of gifts, grants, reimbursements, or from any other source designated by law for deposit to the Oklahoma Oilseed Resources Fund.~~

~~C. Any costs incurred by the Commission pursuant to the provisions of the Oklahoma Oilseed Resources Act shall not exceed the actual collections of the Commission.~~

~~D. Monies in the Oklahoma Oilseed Resources Fund shall only be expended for:~~

~~1. Implementation and management of the Oklahoma Oilseed Resources Act; and~~

~~2. Costs incurred by the Commission and the State Board of Agriculture for the administration of the Oklahoma Oilseed Resources Act.~~

SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-281, is amended to read as follows:

Section 18-281. A. Oilseed producers may petition for a referendum to determine if the assessment is to be continued, at any time after five (5) years following November 1, 2008. The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the oilseed producers. No more than one referendum shall be conducted in any one thirty-six-month period. The Oklahoma Department of Agriculture, Food, and Forestry shall determine if the petition bears the required number of valid signatures. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum, the Department shall mail a notice of the referendum to all known oilseed producers in the State of Oklahoma who market oilseed in commercial quantities. The notice shall specify the dates, times, and places for holding the referendum, and shall include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE THREE CENTS (\$0.03) PER HUNDREDWEIGHT (CWT) ASSESSMENT ON OILSEED MARKETED IN OKLAHOMA FOR UTILIZATION, RESEARCH, EDUCATION, PROMOTION, AND MARKET DEVELOPMENT?

YES ()

NO ()

B. Places within each county for conducting the referendum shall be designated by the ~~Oklahoma Oilseed Commission~~ Agricultural Extension Division of Oklahoma State University, and voting in each county shall be supervised by the county agricultural extension agent, or person designated by the Department. The Oklahoma Oilseed Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns. Certified results of the referendum in each district shall be transmitted within twenty-four (24) hours after voting ends to the President, and the ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

C. 1. The results of the referendum shall be determined by the President, and the results certified to the ~~Chair of the Commission~~ Governor who shall issue a proclamation declaring the results.

2. The Commission shall bear expenses of advertising and conducting the referendum.

D. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the oilseed producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

SECTION 6. REPEALER 2 O.S. 2011, Sections 18-272, as amended by Section 1, Chapter 291, O.S.L. 2013, 18-273, as amended by Section 17, Chapter 304, O.S.L. 2012, 18-274 and 18-280 (2 O.S. Supp. 2016, Sections 18-272 and 18-273), are hereby repealed.

SECTION 7. This act shall become effective November 1, 2017.

Passed the House of Representatives the 14th day of March, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____