

1 **SENATE FLOOR VERSION**

2 February 26, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1388

5 By: Ikley-Freeman and Rader of
6 the Senate

7 and

8 Tadlock of the House

9 **[sales tax - agricultural sales tax exemptions -
10 sale of bee products sold by certain beekeepers -
11 effective date]**

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

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

16 Section 1358. Exemptions - Agriculture.

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

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

23 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
24

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:
24

- 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
24

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.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
23 February 26, 2020 - DO PASS AS AMENDED
24