

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 571 By: Shortey of the Senate
3 and
4 Leewright of the House
5
6

7 [sales tax - agricultural sales tax exemptions -
8 effective date]
9

10 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
11 entire bill and insert
12

13 "An Act relating to sales tax; amending 68 O.S. 2011,
14 Section 1358, which relates to agricultural sales
15 tax exemptions; expanding exemption for certain
16 products; updating language; and providing an
17 effective date.

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

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

21 Section 1358. Exemptions - Agriculture.

22 A. There are hereby specifically exempted from the tax levied
23 by ~~Section 1350 et seq. of this title~~ the Oklahoma Sales Tax Code:
24

1 1. Sales of agricultural products produced in this state by the
2 producer thereof or by an authorized agent of the producer, directly
3 to the consumer or user when such articles are sold at or from a
4 farm, roadside stand or farmers market, as defined by the Oklahoma
5 Department of Agriculture, Food, and Forestry, and not from some
6 other place of business, as follows:

7 a. farm, orchard or garden products, and

8 b. dairy products sold by a dairy producer or farmer who
9 owns all the cows from which the dairy products
10 offered for sale are produced;

11 provided, the provisions of this paragraph shall not be construed as
12 exempting sales by florists, nursery operators or chicken
13 hatcheries, or sales of dairy products by any other business except
14 as set out herein;

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

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

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

4 a. feed which is fed to poultry and livestock, including
5 breeding stock and wool-bearing stock, for the purpose
6 of producing eggs, poultry, milk or meat for human
7 consumption,

8 b. feed purchased in Oklahoma for the purpose of being
9 fed to and which is fed by the purchaser to horses,
10 mules or other domestic or draft animals used directly
11 in the producing and marketing of agricultural
12 products, and

13 c. any stock tonics, water purifying products, stock
14 sprays, disinfectants or other such agricultural
15 supplies.

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

18 "Livestock" shall not be construed to include any pet animals such
19 as dogs, cats, birds or such other fur-bearing animals. This
20 exemption shall only be granted and extended where the purchaser of
21 feed that is to be used and in fact is used for a purpose that would
22 bring about an exemption hereunder executes an invoice or sales
23 ticket in duplicate on a form to be prescribed by the Oklahoma Tax
24

1 Commission. The purchaser may demand and receive a copy of the
2 invoice or sales ticket and the vendor shall retain a copy;

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

6 a. sales of agricultural fertilizer to any person
7 regularly engaged, for profit, in the business of
8 farming or ranching,

9 b. sales of agricultural fertilizer to any person engaged
10 in the business of applying such materials on a
11 contract or custom basis to land owned or leased and
12 operated by persons regularly engaged, for profit, in
13 the business of farming or ranching. In addition to
14 providing the vendor proof of eligibility as provided
15 in Section 1358.1 of this title, the purchaser shall
16 provide the name or names of such owner or lessee and
17 operator and the location of the lands on which ~~said~~
18 the materials are to be applied to each such land,

19 c. sales of agricultural fertilizer, pharmaceuticals and
20 biologicals to persons engaged in the business of
21 applying such materials on a contract or custom basis
22 shall not be considered to be sales to contractors
23 under this article, and ~~said~~ the sales shall not be
24 considered to be taxable sales within the meaning of

1 the Oklahoma Sales Tax Code. As used in this section,
2 "agricultural fertilizer", "pharmaceuticals", and
3 "biologicals" mean any substance sold and used for
4 soil enrichment or soil corrective purposes or for
5 promoting the growth and productivity of plants or
6 animals,

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

13 e. sales of agricultural chemical pesticides to any
14 person regularly engaged, for profit, in the business
15 of farming or ranching. For the purposes of this
16 subparagraph, "agricultural chemical pesticides" shall
17 include any substance or mixture of substances
18 intended for preventing, destroying, repelling or
19 mitigating any insect, snail, slug, rodent, bird,
20 nematode, fungus, weed or any other form of
21 terrestrial or aquatic plant or animal life or virus,
22 bacteria or other microorganism, except viruses,
23 bacteria or other microorganisms on or in living man,
24

1 or any substance or mixture of substances intended for
2 use as a plant regulator, defoliant or desiccant.

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

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

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

1 8. Sales of materials, supplies, and equipment to an
2 agricultural permit holder or to any person with whom the permit
3 holder has contracted to construct facilities which are or which
4 will be used directly in the production of any livestock, including,
5 but not limited to, facilities used in the production and storage of
6 feed for livestock owned by the permit holder. Any person making
7 purchases on behalf of the agricultural permit holder shall certify,
8 in writing, on the copy of the invoice or sales ticket to be
9 retained by the vendor that the purchases are made for and on behalf
10 of such permit holder and set out the name and permit number of such
11 holder. Any person who wrongfully or erroneously certifies that
12 purchases are for an agricultural permit holder or who otherwise
13 violates this subsection shall be guilty of a misdemeanor and upon
14 conviction thereof shall be punishable by a fine of an amount equal
15 to double the amount of sales tax involved or imprisonment in the
16 county jail for not more than sixty (60) days or by both such fine
17 and imprisonment.

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

- 19 1. "Agricultural products" shall include horses; and
20 2. "Ranching" or "ranch" shall include the business, or
21 facilities for the business, of raising horses.

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

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, 2015."

4 Passed the House of Representatives the 7th day of April, 2015.

5

6

7

Presiding Officer of the House of
Representatives

8

9 Passed the Senate the ____ day of _____, 2015.

10

11

12

Presiding Officer of the Senate

13

14

15

16

17

18

19

20

21

22

23

24

1 ENGROSSED SENATE
2 BILL NO. 571

By: Shortey of the Senate

3 and

4 Leewright of the House

5
6 [sales tax - agricultural sales tax exemptions -
7 effective date]
8

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

10 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1358, is
11 amended to read as follows:

12 Section 1358. Exemptions - Agriculture.

13 A. There are hereby specifically exempted from the tax levied
14 by ~~Section 1350 et seq. of this title~~ the Oklahoma Sales Tax Code:

15 1. Sales of agricultural products produced in this state by the
16 producer thereof or by an authorized agent of the producer, directly
17 to the consumer or user when such articles are sold at or from a
18 farm, roadside stand or farmers market, as defined by the Oklahoma
19 Department of Agriculture, Food, and Forestry, and not from some
20 other place of business, as follows:

21 a. farm, orchard or garden products, and

22 b. dairy products sold by a dairy producer or farmer who
23 owns all the cows from which the dairy products
24 offered for sale are produced;

1 provided, the provisions of this paragraph shall not be construed as
2 exempting sales by florists, nursery operators or chicken
3 hatcheries, or sales of dairy products by any other business except
4 as set out herein;

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

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

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

16 a. feed which is fed to poultry and livestock, including
17 breeding stock and wool-bearing stock, for the purpose
18 of producing eggs, poultry, milk or meat for human
19 consumption,

20 b. feed purchased in Oklahoma for the purpose of being
21 fed to and which is fed by the purchaser to horses,
22 mules or other domestic or draft animals used directly
23 in the producing and marketing of agricultural
24 products, and

1 c. any stock tonics, water purifying products, stock
2 sprays, disinfectants or other such agricultural
3 supplies.

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

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

14 5. Sales of items to be and in fact used in the production of
15 agricultural products. Sale of the following items shall be subject
16 to the following limitations:

17 a. sales of agricultural fertilizer to any person
18 regularly engaged, for profit, in the business of
19 farming or ranching,

20 b. sales of agricultural fertilizer to any person engaged
21 in the business of applying such materials on a
22 contract or custom basis to land owned or leased and
23 operated by persons regularly engaged, for profit, in
24 the business of farming or ranching. In addition to

1 providing the vendor proof of eligibility as provided
2 in Section 1358.1 of this title, the purchaser shall
3 provide the name or names of such owner or lessee and
4 operator and the location of the lands on which ~~said~~
5 the materials are to be applied to each such land,

6 c. sales of agricultural fertilizer, pharmaceuticals and
7 biologicals to persons engaged in the business of
8 applying such materials on a contract or custom basis
9 shall not be considered to be sales to contractors
10 under this article, and ~~said~~ the sales shall not be
11 considered to be taxable sales within the meaning of
12 the Oklahoma Sales Tax Code. As used in this section,
13 "agricultural fertilizer", "pharmaceuticals", and
14 "biologicals" mean any substance sold and used for
15 soil enrichment or soil corrective purposes or for
16 promoting the growth and productivity of plants or
17 animals,

18 d. sales of agricultural seed or plants to any person
19 regularly engaged, for profit, in the business of
20 farming or ranching. This section shall not be
21 construed as exempting from sales tax, seed which is
22 packaged and sold for use in noncommercial flower and
23 vegetable gardens, and
24

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

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

17 6. Sale of farm machinery, repair parts thereto or fuel, oil,
18 lubricants and other substances used for operation and maintenance
19 of the farm machinery to be used directly on a farm or ranch in the
20 production, cultivation, planting, sowing, harvesting, processing,
21 spraying, preservation or irrigation of any livestock, poultry,
22 agricultural or dairy products produced from such lands. The
23 exemption specified in this paragraph shall apply to such farm
24 machinery, repair parts or fuel, oil, lubricants and other

1 substances used by persons engaged in the business of custom
2 production, cultivation, planting, sowing, harvesting, processing,
3 spraying, preservation, or irrigation of any livestock, poultry,
4 agricultural, or dairy products for farmers or ranchers. The
5 exemption provided for herein shall not apply to motor vehicles;

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

12 8. Sales of materials, supplies, and equipment to an
13 agricultural permit holder or to any person with whom the permit
14 holder has contracted to construct facilities which are or which
15 will be used directly in the production of any livestock, including,
16 but not limited to, facilities used in the production and storage of
17 feed for livestock owned by the permit holder. Any person making
18 purchases on behalf of the agricultural permit holder shall certify,
19 in writing, on the copy of the invoice or sales ticket to be
20 retained by the vendor that the purchases are made for and on behalf
21 of such permit holder and set out the name and permit number of such
22 holder. Any person who wrongfully or erroneously certifies that
23 purchases are for an agricultural permit holder or who otherwise
24 violates this subsection shall be guilty of a misdemeanor and upon

1 conviction thereof shall be punishable by a fine of an amount equal
2 to double the amount of sales tax involved or imprisonment in the
3 county jail for not more than sixty (60) days or by both such fine
4 and imprisonment.

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

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

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

9 Provided, sales of items at race meetings as defined in Section
10 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt
11 pursuant to the provisions of this section and Section 1358.1 of
12 this title.

13 SECTION 4. This act shall become effective November 1, 2015.

14 Passed the Senate the 11th day of March, 2015.

15

16

Presiding Officer of the Senate

17

18 Passed the House of Representatives the ____ day of _____,
19 2015.

20

21

Presiding Officer of the House
of Representatives

22

23

24