

SENATE BILL 905

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to sales taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-207, is amended by deleting the section and substituting instead the following:

(a) A tax is not due from the sale at retail, lease, rental, use, consumption, distribution, repair, storage for use, or consumption in this state of the substances used for agriculture when sold to a qualified farmer or nurseryman in accordance with this section.

(b) For purposes of this section:

(1) "Agriculture" has the same meaning as defined in § 1-3-105(a)(2)(A)(i), (a)(2)(A)(ii), (a)(2)(B), and (a)(2)(C);

(2) "Qualified farmer or nurseryman" means a person who is engaged in agriculture and meets one (1) or more of the following criteria:

(A) The person is the owner or lessee of agricultural land from which one thousand five hundred dollars (\$1,500) or more of agricultural products were produced and sold during the year, including payments from government sources;

(B) The person is in the business of providing for-hire custom agricultural services for the plowing, planting, harvesting, growing, raising, or processing of agricultural products or for the maintenance of agricultural land;

(C) The person is the owner of land that qualifies for taxation under the Agricultural, Forest and Open Space Land Act of 1976, compiled in chapter 5, part 10 of this title; and

(D) The person's federal income tax return contains one (1) or more of the following:

(i) Business activity on IRS schedule F, profit or loss from farming; and

(ii) Farm rental activity on IRS form 4835, farm rental income and expenses or schedule E, supplemental income and loss; and

(3) "Substances":

(A) Means items used for agriculture, including, but not limited to, materials, buildings, structures, fences, appliances, drugs, equipment, accessories, aircraft, computers, hardware, software, computer systems, warranties, technology, manuals, parts, hoses, pipes, appurtenances, labor, seeds, fertilizer, agri-sawdust, backup power infrastructure, pollution control, energy, water, chemicals, fluids, solvents, greases, heating and cooling systems, and machinery;

(B) Includes:

(i) Items that perform the actions of agriculture, including, but not limited to, cultivating, irrigating, producing, housing, protecting, fencing, harvesting, transporting, packaging, storing, repairing, raising, caring, fertilizing, fueling, fabricating, pumping, maintaining, oiling, lubricating, feeding, hauling, watering, reproducing, milking, extracting, mowing, containing, processing,

drying, washing, decontaminating, conveying, heating, and cooling; and

(ii) Items used for the maintenance and repair of substances used for agriculture; and

(C) Does not include automobiles, trucks, household appliances, and gasoline or diesel used in vehicles operated upon the public highways of this state.

(c) Substances are exempt from the taxes imposed by this chapter whenever it may be established to the satisfaction of the commissioner that they are predominantly used by a qualified farmer or nurseryman in agriculture. Whenever the commissioner determines that the use of substances by a qualified farmer or nurseryman meets such test, the commissioner shall issue a notice regarding the entitlement to the exemption. A notice may be revoked by the commissioner upon a finding that the conditions precedent to the exemption no longer exist following a review by the government operations committees of the senate and the house of representatives meeting jointly or separately, or, alternatively, at the discretion of the chair of either of such committees, by a subcommittee of the government operations committees of the general assembly.

(d) Persons seeking to become qualified farmers or nurserymen shall apply to the commissioner for authority to make purchases exempt from tax. This application must require information that the commissioner deems necessary. If the commissioner finds from the information that the applicant is entitled to be a qualified farmer or nurseryman, the commissioner shall issue a certificate granting the authority for a period of four (4) years, or until the applicant is no longer operating within the scope of its original application. Any misrepresentation made on the application by the applicant subjects the applicant to any applicable tax, penalty, and interest.

(e) Persons who have obtained authority from the commissioner to make purchases tax exempt as a qualified farmer or nurseryman shall provide their vendors with a copy of the certificate issued by the commissioner or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(f) Persons making purchases exempt from tax under this section shall keep records to establish that the property qualifies for the exemption. The purchaser is liable for tax, penalty, and interest for making nonqualifying purchases without payment of tax.

(g) Notwithstanding subsection (b) to the contrary, a person that qualifies as a manufacturer under § 67-6-206 does not qualify as a farmer or nurseryman under this section.

(h) This section does not eliminate the tax-exempt status of any substance that is tax exempt on January 1, 2021.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.