

By: Hilderbran

H.B. No. 268

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from the sales and use tax for certain agricultural items.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 151, Tax Code, is amended by adding Section 151.1551 to read as follows:

Sec. 151.1551. EXEMPTION NUMBER REQUIRED FOR CERTAIN AGRICULTURAL PROPERTY. (a) To qualify for an exemption for an item under Section 151.316(a)(3), (6), (7), (10), or (12) or tangible personal property under Section 151.316(b), an exemption number must be stated on the exemption certificate provided by the purchaser.

(b) A person is eligible for an exemption number if the person owns or operates a business that uses one or more tracts of land in this state as a farm or ranch, as those terms are defined by Section 151.316(c).

(c) A person who is eligible may apply to the comptroller for an exemption number. The application must:

(1) be on a form prescribed by the comptroller;

(2) state the types of crops, livestock, or other agricultural products that are held for sale in the regular course of the business owned or operated or to be owned or operated by the applicant;

(3) state the name and address of the business owned or

1 operated or to be owned or operated by the applicant; and

2 (4) contain any other information required by the
3 comptroller.

4 (d) The comptroller by rule shall develop and implement a
5 procedure by which an applicant may submit an application described
6 by Subsection (c) electronically.

7 (e) The comptroller by rule shall establish a uniform date
8 on which all exemption numbers issued under this section must be
9 renewed, regardless of the date on which an exemption number is
10 initially issued. The rules must require exemption numbers to be
11 renewed every four years.

12 (f) The comptroller, after adequate written notice and a
13 hearing, may suspend or revoke the exemption number issued to a
14 person who fails to comply with this chapter or with a rule adopted
15 under this chapter. At the hearing the person must show cause why
16 the person's exemption number should not be suspended or revoked.

17 (g) The comptroller shall give written notice of the
18 suspension or revocation of an exemption number under Subsection
19 (f) to the person to whom the number was issued. The notice may be
20 personally served on the person or sent by mail to the person's
21 address as shown in the comptroller's records.

22 (h) If the comptroller revokes a person's exemption number
23 under Subsection (f), the person may not be issued a new exemption
24 number unless the comptroller is satisfied that the person will
25 comply with this chapter and the rules adopted under this chapter.
26 The comptroller may prescribe the terms under which a suspended
27 exemption number may be reinstated.

1 (i) A taxpayer may appeal the suspension or revocation of an
2 exemption number in the same manner that appeals are made from a
3 final deficiency determination.

4 (j) The comptroller by rule shall develop and operate an
5 online system to enable a seller of an item or property described by
6 Subsection (a) to search and verify the validity of the exemption
7 number stated on an exemption certificate at the time the
8 certificate is received and to provide documentation of the
9 verification. Documentation provided by the system constitutes
10 proof that the exemption certificate was received in good faith for
11 purposes of Sections 151.054 and 151.104. A seller is not required
12 to use the online system.

13 SECTION 2. Section 151.316(a), Tax Code, as amended by
14 Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st
15 Legislature, Regular Session, 2009, is reenacted and amended to
16 read as follows:

17 (a) Subject to Section 151.1551, the ~~The~~ following items
18 are exempted from the taxes imposed by this chapter:

- 19 (1) horses, mules, and work animals;
20 (2) animal life the products of which ordinarily
21 constitute food for human consumption;
22 (3) feed for farm and ranch animals;
23 (4) feed for animals that are held for sale in the
24 regular course of business;
25 (5) seeds and annual plants the products of which:
26 (A) ordinarily constitute food for human
27 consumption;

1 (B) are to be sold in the regular course of
2 business; or

3 (C) are used to produce feed for animals exempted
4 by this section;

5 (6) fertilizers, fungicides, insecticides,
6 herbicides, defoliants, and desiccants exclusively used or
7 employed on a farm or ranch in the production of:

8 (A) food for human consumption;

9 (B) feed for animal life; or

10 (C) other agricultural products to be sold in the
11 regular course of business;

12 (7) machinery and equipment exclusively used or
13 employed on a farm or ranch in the building or maintaining of roads
14 or water facilities or in the production of:

15 (A) food for human consumption;

16 (B) grass;

17 (C) feed for animal life; or

18 (D) other agricultural products to be sold in the
19 regular course of business;

20 (8) machinery and equipment exclusively used in, and
21 pollution control equipment required as a result of, the
22 processing, packing, or marketing of agricultural products by an
23 original producer at a location operated by the original producer
24 for processing, packing, or marketing the producer's own products
25 if:

26 (A) 50 percent or more of the products processed,
27 packed, or marketed at or from the location are produced by the

1 original producer and not purchased or acquired from others; and

2 (B) the producer does not process, pack, or
3 market for consideration any agricultural products that belong to
4 other persons in an amount greater than five percent of the total
5 agricultural products processed, packed, or marketed by the
6 producer;

7 (9) ice exclusively used by commercial fishing boats
8 in the storing of aquatic species including but not limited to
9 shrimp, other crustaceans, finfish, mollusks, and other similar
10 creatures;

11 (10) tangible personal property, including a tire,
12 sold or used to be installed as a component part of a motor vehicle,
13 machinery, or other equipment exclusively used or employed on a
14 farm or ranch in the building or maintaining of roads or water
15 facilities or in the production of:

16 (A) food for human consumption;

17 (B) grass;

18 (C) feed for animal life; or

19 (D) other agricultural products to be sold in the
20 regular course of business;

21 (11) machinery and equipment exclusively used in an
22 agricultural aircraft operation, as defined by 14 C.F.R. Section
23 137.3; and

24 (12) tangible personal property incorporated into a
25 structure that is used for the disposal of poultry carcasses in
26 accordance with Section 26.303, Water Code.

27 SECTION 3. Section 151.316(b), Tax Code, is amended to read

1 as follows:

2 (b) Subject to Section 151.1551, tangible [~~Tangible~~]
3 personal property sold or used to be installed as a component of an
4 underground irrigation system is exempt from the taxes imposed by
5 this chapter if the system is exclusively used or employed on a farm
6 or ranch in the production of:

7 (1) food for human consumption;

8 (2) grass;

9 (3) feed or forage for:

10 (A) animal life the products of which ordinarily
11 constitute food for human consumption; or

12 (B) horses, mules, and work animals; or

13 (4) other agricultural products to be sold in the
14 regular course of business.

15 SECTION 4. Notwithstanding Section 151.1551, Tax Code, as
16 added by this Act, a person is not required to state an exemption
17 number on an exemption certificate to qualify for an exemption
18 under Section 151.316, Tax Code, that is claimed before January 1,
19 2012.

20 SECTION 5. The change in law made by this Act does not
21 affect tax liability accruing before January 1, 2012. That
22 liability continues in effect as if this Act had not been enacted,
23 and the former law is continued in effect for the collection of
24 taxes due and for civil and criminal enforcement of the liability
25 for those taxes.

26 SECTION 6. To the extent of any conflict, this Act prevails
27 over another Act of the 82nd Legislature, Regular Session, 2011,

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1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 7. This Act takes effect September 1, 2011.