

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Miller of Erath

H.B. No. 2810

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption from the sales and use tax for tangible  
3 personal property incorporated into or attached to certain  
4 agricultural structures.

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

6 SECTION 1. Section 151.316(a), Tax Code, as amended by  
7 Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st  
8 Legislature, Regular Session, 2009, is reenacted and amended to  
9 read as follows:

10 (a) The following items are exempted from the taxes imposed  
11 by this chapter:

12 (1) horses, mules, and work animals;

13 (2) animal life the products of which ordinarily  
14 constitute food for human consumption;

15 (3) feed for farm and ranch animals;

16 (4) feed for animals that are held for sale in the  
17 regular course of business;

18 (5) seeds and annual plants the products of which:

19 (A) ordinarily constitute food for human  
20 consumption;

21 (B) are to be sold in the regular course of  
22 business; or

23 (C) are used to produce feed for animals exempted  
24 by this section;

1           (6) fertilizers,           fungicides,           insecticides,  
2 herbicides, defoliant, and desiccants exclusively used or  
3 employed on a farm or ranch in the production of:

- 4                   (A) food for human consumption;
- 5                   (B) feed for animal life; or
- 6                   (C) other agricultural products to be sold in the  
7 regular course of business;

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

- 11                   (A) food for human consumption;
- 12                   (B) grass;
- 13                   (C) feed for animal life; or
- 14                   (D) other agricultural products to be sold in the  
15 regular course of business;

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

22                   (A) 50 percent or more of the products processed,  
23 packed, or marketed at or from the location are produced by the  
24 original producer and not purchased or acquired from others; and

25                   (B) the producer does not process, pack, or  
26 market for consideration any agricultural products that belong to  
27 other persons in an amount greater than five percent of the total

1 agricultural products processed, packed, or marketed by the  
2 producer;

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

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

12 (A) food for human consumption;

13 (B) grass;

14 (C) feed for animal life; or

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

17 (11) machinery and equipment exclusively used in an  
18 agricultural aircraft operation, as defined by 14 C.F.R. Section  
19 137.3; ~~and~~

20 (12) tangible personal property incorporated into a  
21 structure that is used for the disposal of poultry carcasses in  
22 accordance with Section 26.303, Water Code; and

23 (13) tangible personal property incorporated into or  
24 attached to a structure that is located on a commercial dairy farm,  
25 is used or employed exclusively for the production of milk, and is:

26 (A) a free-stall dairy barn;

27 (B) a dairy structure used solely for maternity

1 purposes; or

2 (C) a dairy commodity structure used as a batch  
3 plant to measure, mix, and process finished feed for dairy cows.

4 SECTION 2. The change in law made by this Act does not  
5 affect tax liability accruing before the effective date of this  
6 Act. That liability continues in effect as if this Act had not been  
7 enacted, and the former law is continued in effect for the  
8 collection of taxes due and for civil and criminal enforcement of  
9 the liability for those taxes.

10 SECTION 3. To the extent of any conflict, this Act prevails  
11 over another Act of the 82nd Legislature, Regular Session, 2011,  
12 relating to nonsubstantive additions to and corrections in enacted  
13 codes.

14 SECTION 4. This Act takes effect September 1, 2011.

# ADOPTED

MAY 23 2011

*Atty. Gen. Paul*  
Secretary of the Senate

By: Miller / Estes

H.B. No. 2810

Substitute the following for H.B. No. 2810:

By: *Estes*

C.S. H.B. No. 2810

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23 (C) are used to produce feed for animals exempted  
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3 employed on a farm or ranch in the production of:

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- 5                   (B) feed for animal life; or
- 6                   (C) other agricultural products to be sold in the  
7 regular course of business;

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

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- 14                   (D) other agricultural products to be sold in the  
15 regular course of business;

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

- 22                   (A) 50 percent or more of the products processed,  
23 packed, or marketed at or from the location are produced by the  
24 original producer and not purchased or acquired from others; and

- 25                   (B) the producer does not process, pack, or  
26 market for consideration any agricultural products that belong to  
27 other persons in an amount greater than five percent of the total

1 agricultural products processed, packed, or marketed by the  
2 producer;

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

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10 farm or ranch in the building or maintaining of roads or water  
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15 (D) other agricultural products to be sold in the  
16 regular course of business;

17 (11) machinery and equipment exclusively used in an  
18 agricultural aircraft operation, as defined by 14 C.F.R. Section  
19 137.3; ~~and~~

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21 structure that is used for the disposal of poultry carcasses in  
22 accordance with Section 26.303, Water Code; and

23 (13) tangible personal property incorporated into or  
24 attached to a structure that is located on a commercial dairy farm,  
25 is used or employed exclusively for the production of milk, and is:

26 (A) a free-stall dairy barn; or

27 (B) a dairy structure used solely for maternity

1 purposes.

2           SECTION 2. The change in law made by this Act does not  
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4 Act. That liability continues in effect as if this Act had not been  
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6 collection of taxes due and for civil and criminal enforcement of  
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9 over another Act of the 82nd Legislature, Regular Session, 2011,  
10 relating to nonsubstantive additions to and corrections in enacted  
11 codes.

12           SECTION 4. This Act takes effect September 1, 2011.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 26, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Section 151.316(a) of the Tax Code relating to exemptions of agricultural items from sales and use taxes.

The bill would add a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a dairy free stall barn or a dairy structure used solely for maternity purposes if the structure is located on a commercial dairy farm and is used exclusively for the production of milk.

The proposed amendment is consistent with current administrative practice, and therefore would have no significant fiscal implications.

This bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 19, 2011**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.),  
**Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Section 151.316(a) of the Tax Code relating to exemptions of agricultural items from sales and use taxes.

The bill would add a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a dairy free stall barn or a dairy structure used solely for maternity purposes if the structure is located on a commercial dairy farm and is used exclusively for the production of milk.

The proposed amendment is consistent with current administrative practice, and therefore would have no significant fiscal implications.

This bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 10, 2011**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Section 151.316(a) of the Tax Code relating to exemptions of agricultural items from sales and use taxes.

The bill would add a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a dairy free stall barn, a dairy structure used solely for maternity purposes, or a commodity structure used as batch plants to measure, mix and process finished feed for dairy cows, if the structure is located on a commercial dairy farm and is used exclusively for the production of milk.

The proposed amendment is consistent with current administrative practice, and therefore would have no significant fiscal implications.

This bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 27, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Section 151.316(a) of the Tax Code relating to exemptions of agricultural items from sales and use taxes.

The bill would add a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a dairy free stall barn, a dairy structure used solely for maternity purposes, or a commodity structure used as batch plants to measure, mix and process finished feed for dairy cows, if the structure is located on a commercial dairy farm and is used exclusively for the production of milk.

The proposed amendment is consistent with current administrative practice, and therefore would have no significant fiscal implications.

This bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 10, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (Relating to the exemption from limited sales, excise and use taxation of tangible personal property incorporated into or attached to certain specific purpose agricultural structures.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

This bill would amend Section 151.316(a) of the Tax Code relating to exemptions of agricultural items from sales and use taxes.

The bill would add a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a commercial dairy free stall barn, a commercial dairy structure used solely for maternity purposes, or a commodity structure used as batch plants to measure, mix and process finished feed for dairy cows.

The proposed change to the tax code is consistent with current administrative practice, and therefore would have no significant fiscal implications.

This bill would take effect September 1, 2011.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**TAX/FEE EQUITY NOTE**

**82ND LEGISLATIVE REGULAR SESSION**

**April 27, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.),  
**Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

**Source Agencies:**

**LBB Staff:** JOB, KK

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**TAX/FEE EQUITY NOTE**

**82ND LEGISLATIVE REGULAR SESSION**

**April 10, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2810** by Miller, Sid (Relating to the exemption from limited sales, excise and use taxation of tangible personal property incorporated into or attached to certain specific purpose agricultural structures.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

**Source Agencies:**

**LBB Staff:** JOB, KK