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H.B. 347
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Jones

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SUMMARY

- Presumes that certain vehicles and trailers are primarily used in agriculture, and thus exempt from sales and use tax, when the purchaser provides three years of filed federal farm profit and loss forms.
- Allows the Tax Commissioner to issue certificates verifying that a consumer has filed three years of those forms with the Commissioner.

DETAILED ANALYSIS

Agricultural use exemption: established farmer presumption

Continuing law exempts from sales and use tax items used or consumed primarily to produce property for sale through farming, agriculture, horticulture, or floriculture. Under current law, this “agricultural use” exemption does not apply to any specific list of property; how each item purchased will be used is the key as to whether the exemption applies.¹

To obtain the exemption under current law, a purchaser must provide the seller an exemption certificate, prescribed by the Tax Commissioner, stating the reason the sale is not subject to the sales tax. The certificate relieves the seller of the obligation to collect the sales tax on behalf of the state. But, if the Department of Taxation (TAX) later determines that the purchase does not qualify for the exemption, the purchaser is liable for the tax due.²

The bill allows a purchaser to obtain the agricultural use exemption for certain vehicles and trailers if the purchaser provides the seller with copies of the purchaser’s Schedule F – the federal income tax profit or loss from farming form – for the three most recent years for which

¹ R.C. 5729.02(B)(42)(n).

² R.C. 5739.03(B)(1)(a) and (b).

federal returns were due. The purchaser will then benefit from a presumption that the vehicle or trailer will be used primarily in farming, and is therefore exempt from sales and use tax. Qualifying items are:

- Trailers, excluding watercraft trailers;
- Utility vehicles, i.e., vehicles with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, land and garden, materials handling, or similar activities;
- All-purpose vehicles, i.e., vehicles designed primarily for cross-country travel on land and water, or on multiple types of terrain, but excluding golf carts;
- Garden tractors, small utility tractors, and riding mowers.³

The bill restricts the vendor and TAX from conditioning the presumption on the purchaser providing any additional documentation or explanation. It does not remove the requirement to file an exemption certificate, but a purchaser providing the required schedules need not explain why a listed item is exempt under the agricultural use exemption.

The bill also allows the Tax Commissioner to prescribe and issue certificates verifying that a consumer has filed a Schedule F for the required three years. A certificate holder may submit the certificate to a vendor in lieu of Schedule F copies.⁴

HISTORY

Action	Date
Introduced	12-04-23

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³ R.C. 5739.02(B)(42)(n) and R.C. 1353.01, 4501.01, and 4519.01, not in the bill.

⁴ R.C. 5739.03(B)(1)(c).