

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1205 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/4/09 S3/5/09

A Bill

SENATE BILL 442

5 By: Senators J. Key, *Teague, Madison*
6 By: Representatives Hopper, Kidd, *J. Burris, Garner, Kerr, M. Martin, Moore*
7

For An Act To Be Entitled

10 AN ACT TO CLARIFY THAT THE SALE OF RAW PRODUCTS
11 AT A FARMERS' MARKET WHERE THE RAW PRODUCTS ARE
12 *PRODUCED AND SOLD BY THE PRODUCER ARE EXEMPTED*
13 FROM THE GROSS RECEIPTS TAX; AND FOR OTHER
14 PURPOSES.

Subtitle

16 TO CLARIFY THAT THE SALE OF RAW PRODUCTS
17 AT A FARMERS' MARKET WHERE THE RAW
18 *PRODUCTS ARE PRODUCED AND SOLD BY THE*
19 *PRODUCER ARE EXEMPTED FROM THE GROSS*
20 RECEIPTS TAX.
21

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 26-52-401(18) concerning various exemptions
27 from the gross receipts tax is amended to read as follows:

28 (18)(A) Gross receipts or gross proceeds derived from the sale
29 of:

30 (i) Any cotton or seed cotton or lint cotton or
31 baled cotton, whether compressed or not, or cotton seed in its original
32 condition;

33 (ii) Seed for use in the commercial production of an
34 agricultural product or of seed;

35 (iii) Raw products from the farm, orchard, or



1 garden, when the sale is made by the producer of the raw products directly to
 2 the consumer and user, including the sale of raw products from a farm,
 3 orchard, or garden that are produced and sold by the producer of the raw
 4 products at a farmers' market, including without limitation cut or dried
 5 flowers, plants, vegetables, fruits, nuts, and herbs;

6 (iv) Livestock, poultry, poultry products, and dairy
 7 products of producers owning not more than five (5) cows; and

8 (v) Baby chickens.

9 (B)(i) An exemption granted by this subdivision (18) shall
 10 not apply when the articles are sold at or from an established business, even
 11 though sold by the producer of the articles.

12 ~~(ii) The exemption shall also not apply unless the~~
 13 ~~articles are produced or grown within the State of Arkansas. A farmer's~~
 14 ~~market is not an established business if the farmers' market sells raw~~
 15 ~~product directly to the user of the raw product and the farmers' market is:~~

16 (a) Comprised of one or more producers of a
 17 raw product;

18 (b) Operated seasonally; and

19 (c) Held out-of doors or in a public space.

20
 21 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 22 General Assembly of the State of Arkansas that farmers have a primary
 23 harvesting season that begins in early Spring and continues throughout the
 24 Summer and Fall; that farmers' markets begin to open and sell their produce
 25 in early Spring and sell continuously throughout the Spring, Summer, and
 26 Fall; that in order for the farmers to reap the benefit of their labors
 27 during this growing and harvesting season this act must be enacted with all
 28 due haste. Therefore, an emergency is declared to exist and this act being
 29 immediately necessary for the preservation of the public peace, health, and
 30 safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,
 33 the expiration of the period of time during which the Governor may veto the
 34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is
 36 overridden, the date the last house overrides the veto.

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/s/ J. K

APPROVED: 4/7/2009y