

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

930V0730

## SENATE BILL NO. 160

Introduced by: Senators Begalka, Bradford, Frerichs, Jensen, Lucas, Novstrup (Al), and Van Gerpen and Representatives Greenfield, Anderson, Bolin, Ecklund, Feickert, Hawley, Hoffman, Kirschman, Kopp, Latterell, Magstadt, Nelson, Olson (Betty), Parsley, Peterson, Schrempp, Steele, Tyler, and Verchio

1 FOR AN ACT ENTITLED, An Act to exempt the production of certain plants and sod from  
2 sales and use taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant  
7 is considered an agricultural purpose. If the sod and plants are raised with the intent to be  
8 ultimately sold at retail, the following products are hereby specifically exempted from the tax  
9 imposed by chapter 10-45, if the products are directly used in the production of the sod or  
10 plants:

- 11 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in  
12 conjunction with the pesticide as enumerated in § 10-45-16.1;
- 13 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and
- 14 (3) Fuel for agricultural purposes as defined in § 10-45-19.



1 No horticultural enterprise may receive the exemption pursuant to this section unless the  
2 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),  
3 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse  
4 operating for more than three months per year, in which the main enterprise is the raising of  
5 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as  
6 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the  
7 products are ultimately offered for sale at retail.

8 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant  
11 is considered an agricultural purpose. If the sod and plants are raised with the intent to be  
12 ultimately sold at retail, the following products are hereby specifically exempted from the tax  
13 imposed by chapter 10-46, if the products are directly used in the production of the sod or  
14 plants:

- 15 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in  
16 conjunction with the pesticide as enumerated in § 10-45-16.1;
- 17 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and
- 18 (3) Fuel for agricultural purposes as defined in § 10-45-19.

19 No horticultural enterprise may receive the exemption pursuant to this section unless the  
20 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),  
21 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse  
22 operating for more than three months per year, in which the main enterprise is the raising of  
23 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as  
24 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the

1 products are ultimately offered for sale at retail.