

AN ACT

ENTITLED, An Act to exempt the production of certain plants and sod from sales and use taxes.

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

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

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

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

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

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

The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant is considered an agricultural purpose. If the sod and plants are raised with the intent to be ultimately

sold at retail, the following products are hereby specifically exempted from the tax imposed by chapter 10-46, if the products are directly used in the production of the sod or plants:

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

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

An Act to exempt the production of certain plants and sod from sales and use taxes.

\_\_\_\_\_  
I certify that the attached Act  
originated in the

SENATE as Bill No. 183

\_\_\_\_\_  
Secretary of the Senate  
\_\_\_\_\_

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 183

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
\_\_\_\_\_

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor  
\_\_\_\_\_

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State