

## 2001 ASSEMBLY BILL 728

January 16, 2002 - Introduced by Representatives OTT, AINSWORTH, ALBERS, FREESE, GRONEMUS, GROTHMAN, GUNDERSON, HAHN, HINES, HUNDERTMARK, KESTELL, KRAWCZYK, LASSA, M. LEHMAN, MONTGOMERY, MUSSER, OLSEN, OWENS, PETROWSKI, SYKORA, TOWNSEND and VRAKAS, cosponsored by Senator WELCH. Referred to Committee on Agriculture.

- 1 **AN ACT to amend** 77.52 (13) and 77.53 (10) of the statutes; **relating to:** sales of  
2 livestock that are exempt from the sales tax and the use tax.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a seller of tangible personal property or services who does not collect the sales tax or the use tax on a sale of tangible personal property or services has the burden of proving that such a sale is exempt from the sales tax or use tax, unless the seller takes an exemption certificate from the purchaser. The exemption certificate is issued by the department of revenue and indicates that the bearer of the certificate is exempt from paying the sales tax or the use tax. However a seller of commodities, generally, is not required to take an exemption certificate from a purchaser who claims an exemption and the seller is relieved of the burden of proving that such a sale is exempt from the sales tax or the use tax.

Under this bill, a seller of cattle, sheep, goats, and pigs at a livestock market is also not required to take an exemption certificate from a purchaser who claims an exemption and the seller is relieved of the burden of proving that such a sale is exempt from the sales tax or the use tax.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

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1           **SECTION 1.** 77.52 (13) of the statutes is amended to read:

2           77.52 **(13)** For the purpose of the proper administration of this section and to  
3 prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
4 the tax until the contrary is established. The burden of proving that a sale of tangible  
5 personal property or services is not a taxable sale at retail is upon the person who  
6 makes the sale unless that person takes from the purchaser a certificate to the effect  
7 that the property or service is purchased for resale or is otherwise exempt; except  
8 that no certificate is required for sales of cattle, sheep, goats, and pigs that are sold  
9 at a livestock market, as defined in s. 95.68 (1) (e), and no certificate is required for  
10 sales of commodities, as defined in 7 USC 2, that are consigned for sale in a  
11 warehouse in or from which the commodity is deliverable on a contract for future  
12 delivery subject to the rules of a commodity market regulated by the U.S. commodity  
13 futures trading commission if upon the sale the commodity is not removed from the  
14 warehouse.

15           **SECTION 2.** 77.53 (10) of the statutes is amended to read:

16           77.53 **(10)** For the purpose of the proper administration of this section and to  
17 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that  
18 tangible personal property or taxable services sold by any person for delivery in this  
19 state is sold for storage, use, or other consumption in this state until the contrary is  
20 established. The burden of proving the contrary is upon the person who makes the  
21 sale unless that person takes from the purchaser a certificate to the effect that the  
22 property or taxable service is purchased for resale, or otherwise exempt from the tax;  
23 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are  
24 sold at a livestock market, as defined in s. 95.68 (1) (e), and no certificate is required  
25 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a

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1 warehouse in or from which the commodity is deliverable on a contract for future  
2 delivery subject to the rules of a commodity market regulated by the U.S. commodity  
3 futures trading commission if upon the sale the commodity is not removed from the  
4 warehouse.

5 **SECTION 3. Effective date.**

6 (1) This act takes effect on the first day of the 2nd month beginning after  
7 publication.

8 (END)