

2001 DRAFTING REQUEST

Bill

Received: 11/08/2001

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Alvin Ott (608) 266-5831

By/Representing: mark patronsky

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - sales

Extra Copies: Mark Patronsky
Mike Hinnendael (DOR)

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Sale of livestock at auction

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 11/15/2001	rschluet 11/15/2001	pgreensl 11/20/2001	_____	lrb_docadmin 11/20/2001		S&L
	jkreye 12/10/2001	jdye 12/10/2001		_____			
/1			pgreensl 12/10/2001	_____	lrb_docadmin 12/10/2001	lrb_docadmin	S&L 12/10/2001

FE Sent For:

<END>

Attn: [unclear]

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FE Sent For:		1 12/10 jw	1/10 ps				

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1/?	jkreye	<i>[Signature]</i> 11-15-01 1/15 jld	<i>[Signature]</i> 1/15	<i>[Signature]</i> 1/15			S&I.

[Handwritten notes and signatures]
 1/15 jld
 1/15
 pg 1 Ryt
 <END>

FE Sent For:

11-8-01

Mark Patrosky — Council

sales tax Rep. Ott

met with John Evans & Mike Hammebeck

7-5022
— 11 —

Livestock auctions ~ 30 premises in Wis.

Equity Co. — 17 of the 30 sites

farmers bring in cattle or sale day to auction off

most purposes — purchased by those who are tax exempt

auction people not collecting the certificate from buyers (who are tax exempt)

Ott — bill = no longer require auction house to get the exemption certificate

— auctioneer liable to collect the sales tax

— DOR thinks should amend 77.52 (13) — add another certificate exemption

95.68 (1)(e) — "livestock" ^{market} definition may be useful

cattle, sheep, goats, & pigs only (horse sales not exempt, for example)

buyers at auction include farmers AND dealers

dealers — to hold and resale

— to buy on others behalf

→ need to be done for
resale purposes too?

get a draft to send to DOR (PI)
to identify problems



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-42167

JK:.....

RS

PI
JK
RS + JLD
MJK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 11-15-01

D-N

Egan

sales

1 AN ACT ...; relating to: ~~providing an exemption certificate for the sale~~ of
2 livestock ~~that are exempt from the sales tax and the use tax~~

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.

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

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.

History: 1973 c. 156; 1975 c. 39; 1977 c. 29, 142, 418; 1979 c. 174, 221; 1981 c. 20, 317; 1983 a. 2, 27; 1983 a. 189 ss. 99, 103, 107, 389 (12); 1983 a. 341, 540, 544; 1985
 a. 29, 149; 1987 a. 27, 399; 1989 a. 31, 335; 1991 a. 39, 316; 1993 a. 112, 213, 368, 437; 1995 a. 27, 225, 351; 1997 a. 27, 237, 291; 1999 a. 9, 83; 1999 a. 150 s. 622.

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

1 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
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4 futures trading commission if upon the sale the commodity is not removed from the
5 warehouse.

~~History: 1971 c. 125, 211; 1977 c. 29, 418; 1979 c. 1, 174; 1981 c. 317; 1983 a. 2; 1985 a. 29; 1987 a. 27, 268, 399; 1991 a. 39, 316; 1993 a. 16, 112; 1995 a. 27, 209; 1997 a. 27, 41, 237; 1999 a. 31.~~

6 **SECTION 3. Effective date.**

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

9 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4216/2dn

JK:.....

Dale

5 + JLD

Representative Ott:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4216/P1dn
JK:rs&jld:pg

November 20, 2001

Representative Ott:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, November 20, 2001 11:19 AM
To: Patronsky, Mark; Hinnendael, Michael J
Subject: LRB-4216/P1 & P1dn (attached)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

11/20/2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4216/P1
JK:rs&jld:pg

RM not R

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

m 12-10-01
TODAY

Reger

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.

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.

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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
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22 property or taxable service is purchased for resale, or otherwise exempt from the tax;
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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)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

January 28, 2002

MEMORANDUM

To: Representative Ott

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2001 AB 728** (LRB-4216/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

January 23, 2002

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on AB 728 relating to the Sale of Livestock at Auction

The analysis states that sellers of commodities *generally* are not required to take exemption certificates from buyers. However, with the exception of a single commodity under specified circumstances, copper stored in a warehouse in Wisconsin, sellers are required to take exemption certificates from buyers.

The analysis also states that the Department issues exemption certificates to purchasers indicating that the purchaser is exempt from paying sales or use tax. Actually, the Department makes blank exemption certificate forms available to the public; purchasers complete these forms and provide them to sellers. In fact, the law allows buyers to use their own certificates instead of the department-produced forms, provided they contain all the necessary information.

If you have questions regarding this technical memorandum, please contact Blair P. Kruger at 266-1310 or bkruger@dor.state.wi.us.