

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2177

Introduced by

Senators Wardner, Taylor

Representatives Kreidt, Onstad

1 A BILL for an Act to create and enact section 57-39.2-04.5 and a new section to chapter
2 57-39.5 of the North Dakota Century Code, relating to a sales and use tax exemption for dairy
3 farm machinery, equipment, and structural materials; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Section 57-39.2-04.5 of the North Dakota Century Code is created and
6 enacted as follows:

7 **59-39.2-04.5. Sales tax exemption for machinery, equipment, and structural**
8 **materials for dairy farm.**

- 9 1. Gross receipts from sales of machinery, equipment, and structural materials used
10 directly and exclusively in the milking operation of a dairy farm are exempt from
11 taxes under this chapter. Purchase of replacement machinery, equipment, or
12 construction materials is exempt if it otherwise qualifies under this section.
- 13 2. To qualify for the exemption under this section at the time of purchase, a dairy
14 farmer must receive from the commissioner a certificate stating that the machinery,
15 equipment, or construction materials qualify for the exemption. If a dairy farmer
16 does not obtain a certificate for the purchase to qualify for a refund, the dairy
17 farmer must pay the tax and apply to the commissioner for a refund.
- 18 3. If the machinery, equipment, or construction material is purchased or installed by a
19 contractor subject to tax under this chapter to qualify for a refund, the dairy farmer
20 must apply for a refund of the amount remitted by the contractor.
- 21 4. For purposes of this section:
- 22 a. "Equipment" means any tangible personal property, other than machinery,
23 used directly and exclusively in milk collection, handling, and storage; heating
24 or cooling of the structure in which the milking operation is conducted, or

1 tangible personal property, other than machinery, used directly and
2 exclusively for waste handling and disposal directly related to the milking
3 operation, and which tangible personal property is not commonly usable in
4 other agricultural operations.

5 b. "Machinery" means mechanical devices used directly and exclusively in milk
6 collection, handling, and storage; heating or cooling of the structure in which
7 the milking operation is conducted; or mechanical devices used directly and
8 exclusively for waste handling and disposal directly related to the milking
9 operation. The term includes electrical, mechanical, and electronic
10 components that are part of machinery and necessary for a machine to
11 produce its effect or result and environmental control equipment required to
12 maintain certain levels of humidity or temperature. The term includes
13 computer equipment that controls or monitors the functions of machinery
14 used directly in the milking operation.

15 c. "Machinery" and "equipment" do not include handtools or transportation
16 equipment commonly usable in other agricultural operations or machines and
17 equipment used primarily in administrative, accounting, sales, or other
18 segments of the dairy farm operation besides milk production, handling, and
19 storage.

20 d. "Structural materials" means materials incorporated in the structure in which
21 the milking operation is conducted or materials incorporated in the waste
22 handling and disposal system associated with that structure.

23 **SECTION 2.** A new section to chapter 57-39.5 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Gross receipts tax exemption - Farm machinery and equipment for dairy farm.**

26 1. Gross receipts from the sale of farm machinery and equipment used directly and
27 exclusively in the milking operation of a dairy farm are exempt from taxes under
28 this chapter.

29 2. For purposes of this section:

30 a. "Equipment" means any tangible personal property, other than machinery,
31 used directly and exclusively in milk collection, handling, and storage; heating

1 or cooling of the structure in which the milking operation is conducted; or
2 tangible personal property, other than machinery, used directly and
3 exclusively for waste handling and disposal directly related to the milking
4 operation, and which tangible personal property is not commonly usable in
5 other agricultural operations.

6 b. "Machinery" means mechanical devices used directly and exclusively in milk
7 collection, handling, and storage; heating or cooling of the structure in which
8 the milking operation is conducted; or mechanical devices used directly and
9 exclusively for waste handling and disposal directly related to the milking
10 operation. The term includes electrical, mechanical, and electronic
11 components that are part of machinery and necessary for a machine to
12 produce its effect or result and environmental control equipment required to
13 maintain certain levels of humidity or temperature. The term includes
14 computer equipment that controls or monitors the functions of machinery
15 used directly in the milking operation.

16 c. "Machinery" and "equipment" do not include handtools or transportation
17 equipment commonly usable in other agricultural operations or machines and
18 equipment used primarily in administrative, accounting, sales, or other
19 segments for the dairy farm operation besides milk production, handling, and
20 storage.

21 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable events
22 occurring after June 30, 2005, and section 2 of this Act is effective for taxable events occurring
23 after December 31, 2005.