

HOUSE BILL NO. 1394

Introduced by

Representatives Becker, Dockter, Klemin, Kreun, Rohr

1 A BILL for an Act to amend and reenact subsection 1 of section 57-39.2-02.1, subsection 1 of
2 section 57-40.2-02.1, and section 57-40.3-02 of the North Dakota Century Code, relating to a
3 reduction in the rate of state sales, use, and motor vehicle excise taxes; and to provide an
4 effective date.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes
9 used for residential or business purposes, and except as otherwise expressly provided
10 in this chapter, there is imposed a tax of ~~five~~four percent upon the gross receipts of
11 retailers from all sales at retail, including the leasing or renting of tangible personal
12 property as provided in this section, within this state of the following to consumers or
13 users:

14 a. Tangible personal property, consisting of goods, wares, or merchandise, except
15 mobile homes used for residential or business purposes and including bundled
16 transactions consisting entirely of tangible personal property.

17 b. The furnishing or service of communication services including one-way and
18 two-way telecommunications services or steam other than steam used for
19 processing agricultural products.

20 c. Tickets or admissions to places of amusement or entertainment or athletic
21 events, including amounts charged for participation in an amusement,
22 entertainment, or athletic activity.

23 d. Magazines and other periodicals.

24 e. The leasing or renting of a hotel or motel room or tourist court accommodations.

- 1 f. The leasing or renting of tangible personal property the transfer of title to which
2 has not been subjected to a retail sales tax under this chapter or a use tax under
3 chapter 57-40.2.
- 4 g. Sale, lease, or rental of a computer and prewritten computer software, including
5 prewritten computer software delivered electronically or by load and leave. For
6 purposes of this subdivision:
- 7 (1) "Computer" means an electronic device that accepts information in digital or
8 similar form and manipulates it for a result based on a sequence of
9 instructions.
- 10 (2) "Computer software" means a set of coded instructions designed to cause a
11 computer or automatic data processing equipment to perform a task.
- 12 (3) "Delivered electronically" means delivered from the seller to the purchaser
13 by means other than tangible storage media.
- 14 (4) "Electronic" means relating to technology having electrical, digital, magnetic,
15 wireless, optical, electromagnetic, or similar capabilities.
- 16 (5) "Load and leave" means delivery to the purchaser by use of a tangible
17 storage media when the tangible storage media is not physically transferred
18 to the purchaser.
- 19 (6) "Prewritten computer software" means computer software, including
20 prewritten upgrades, which is not designed and developed by the author or
21 other creator to the specifications of a specific purchaser. The combining of
22 two or more "prewritten computer software" programs or prewritten portions
23 thereof does not cause the combination to be other than "prewritten
24 computer software". "Prewritten computer software" includes software
25 designed and developed by the author or other creator to the specifications
26 of a specific purchaser when it is sold to a person other than the purchaser.
27 If a person modifies or enhances "computer software" of which the person is
28 not the author or creator, the person is deemed to be the author or creator
29 only of such person's modifications or enhancements. "Prewritten computer
30 software" or a prewritten portion thereof that is modified or enhanced to any
31 degree, if such modification or enhancement is designed and developed to

1 the specifications of a specific purchaser, remains "prewritten computer
2 software". However, if there is a reasonable, separately stated charge or an
3 invoice or other statement of the price given to the purchaser for such
4 modification or enhancement, such modification or enhancement shall not
5 constitute "prewritten computer software".

6 h. A mandatory computer software maintenance contract for prewritten computer
7 software.

8 i. An optional computer software maintenance contract for prewritten computer
9 software that provides only software upgrades or updates or an optional
10 computer software maintenance contract for prewritten computer software that is
11 a bundled transaction and provides software upgrades or updates and support
12 services.

13 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-40.2-02.1 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 1. Except as otherwise expressly provided in subsection 2 for purchases of mobile
16 homes used for residential or business purposes, an excise tax is imposed on the
17 storage, use, or consumption in this state of tangible personal property purchased at
18 retail for storage, use, or consumption in this state, at the rate of ~~five~~four percent of the
19 purchase price of the property. Except as limited by section 57-40.2-11, an excise tax
20 is imposed on the storage, use, or consumption in this state of tangible personal
21 property not originally purchased for storage, use, or consumption in this state at the
22 rate of ~~five~~four percent of the fair market value of the property at the time it was
23 brought into this state.

24 **SECTION 3. AMENDMENT.** Section 57-40.3-02 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **57-40.3-02. Tax imposed.**

27 There is hereby imposed an excise tax at the rate of ~~five~~four percent on the purchase price
28 of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for
29 use on the streets and highways of this state and required to be registered under the laws of
30 this state.

- 1 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
- 2 June 30, 2013.