

Introduced by

Senators Sorvaag, Burckhard, Laffen

Representatives Guggisberg, Kading, Schmidt

1 A BILL for an Act to amend and reenact section 57-39.2-04.3 of the North Dakota Century  
2 Code, relating to a sales tax exemption for molds used in manufacturing; and to provide an  
3 effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-39.2-04.3 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-39.2-04.3. Sales tax exemption for manufacturing or recycling machinery and**  
8 **equipment and primary sector business computer and telecommunications equipment.**

- 9 1. Gross receipts from sales of machinery or equipment used directly in manufacturing of  
10 tangible personal property for wholesale, retail, or lease are exempt from taxes under  
11 this chapter. To be exempt, the machinery or equipment must be used in a new  
12 manufacturing plant or in a physical or economic expansion of an existing  
13 manufacturing plant. Purchase of replacement machinery or equipment is not exempt  
14 unless it results in a physical or economic expansion of the plant.
- 15 2. Gross receipts from sales of machinery or equipment used directly in recycling of  
16 tangible personal property are exempt from taxes under this chapter. To be exempt,  
17 the machinery or equipment must be used in a new recycling facility or in physical or  
18 economic expansion of an existing recycling facility. Purchase of replacement  
19 machinery or equipment is not exempt unless it results in a physical or economic  
20 expansion of the facility.
- 21 3. Gross receipts from sales of computer and telecommunications equipment that is an  
22 integral part of a new primary sector business or a physical or economic expansion of  
23 a primary sector business are exempt from taxes under this chapter. Purchase of  
24 replacement equipment is not exempt under this subsection.

- 1           4. To qualify for exemption at the time of purchase, the customer, manufacturer, recycler,  
2           or primary sector business must receive from the commissioner a certificate stating  
3           that the machinery or equipment qualifies for the exemption. If a certificate is not  
4           received before the purchase, the customer, manufacturer, recycler, or primary sector  
5           business must pay the tax and apply to the commissioner for a refund.
- 6           5. If the machinery or equipment is purchased or installed by a contractor subject to tax  
7           under this chapter, the manufacturer, recycler, or primary sector business must apply  
8           for a refund of the amount remitted by the contractor.
- 9           6. For purposes of this section, the following definitions apply:
- 10          a. "Economic expansion" means an increase in production volume, employment, or  
11          the types of products that can be manufactured or recycled.
- 12          b. "Equipment":
- 13             (1) For purposes of a customer, means a mold purchased by a customer and  
14             used directly by a manufacturer in the manufacturing process:
- 15             (2) For purposes of a manufacturer or recycler, means any tangible personal  
16             property other than machinery used directly in the manufacturing or  
17             recycling process; and
- 18             ~~(2)~~(3) For purposes of a primary sector business other than manufacturing or  
19             recycling, means telecommunications equipment and computer equipment,  
20             printers, and software that are an integral part of the operations of the  
21             primary sector business.
- 22          c. "Machinery" means mechanical devices purchased or constructed by the  
23          manufacturer or recycler, or its agent, and used directly in manufacturing or  
24          recycling operations at any time from the initial stage where the raw material is  
25          first received at the plant site through the completion of the product, including  
26          packaging and all processes prior to transportation of the product from the site.  
27          The term includes electrical, mechanical, and electronic components that are part  
28          of machinery and necessary for a machine to produce its effect or result and  
29          environmental control equipment required to maintain certain levels of humidity or  
30          temperature in a special and limited area of the manufacturing facility where the  
31          regulation is essential for production to occur. The term includes computer

- 1 equipment that controls or monitors the functions of machinery used directly in  
2 the manufacturing operations.
- 3 d. "Machinery" and "equipment":
- 4 (1) For purposes of a manufacturer or recycler, do not include handtools,  
5 buildings, or transportation equipment not used directly in manufacturing or  
6 recycling; machines and equipment used primarily in administrative,  
7 accounting, sales, or other nonmanufacturing segments of the business;  
8 any property that becomes a part of the manufactured or recycled product;  
9 or any other equipment or machinery not used directly in manufacturing or  
10 recycling; and
- 11 (2) For purposes of a primary sector business other than manufacturing or  
12 recycling, do not include equipment that is not an integral part of the  
13 operations of the primary sector business.
- 14 e. "Manufacturing", in addition to the meaning ordinarily ascribed to it, means the  
15 processing of agricultural products, including registered and certified seed, but  
16 does not include mining, refining, extracting oil and gas, or the generation of  
17 electricity.
- 18 f. "Primarily" means more than fifty percent of the time the machinery or equipment  
19 is used.
- 20 g. "Primary sector business" means an individual, corporation, limited liability  
21 company, partnership, or association that through the employment of knowledge  
22 or labor adds value to a product, process, or service which results in the creation  
23 of new wealth and which has been certified by the department of commerce  
24 division of economic development and finance to be qualified under this  
25 subdivision.
- 26 h. "Recycling" means collecting or recovering material that would otherwise be solid  
27 waste and performing all or part of the process in which the material becomes a  
28 raw material for manufacturing or becomes a product for sale at retail or  
29 wholesale.
- 30 i. "Used directly" with respect to manufacturing means used primarily in the actual  
31 production, processing, fabrication, or assembly of raw materials, or partially

1 finished materials, into the form in which the product is finalized, packaged, and  
2 ready for market. The term also means:

- 3 (1) To effect a direct physical change upon the tangible personal property.  
4 (2) To guide or measure a direct physical change upon the property when the  
5 function is an integral and essential part of tuning, verifying, or aligning the  
6 component parts of the tangible personal property.  
7 (3) To test or measure the property on the production line or at a site in the  
8 location of production.  
9 (4) To transport, convey, or handle the tangible personal property during the  
10 manufacturing.  
11 (5) To package the product for sale and shipment.  
12 (6) To conduct research and development and design activities related to the  
13 manufacturing process of the plant.

14 "Used directly" with respect to recycling means used solely in processing,  
15 compacting, altering, transporting, or otherwise affecting material as a part of the  
16 recycling process.

17 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
18 June 30, 2015.