

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1049

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to amend and reenact sections 4-30-03.9, 10-19.1-05, 15-18-06, 19-03.1-30,
2 and 26.1-26-11, subsection 6 of section 27-20-02, subsection 1 of section 38-08-09.4,
3 subsection 5 of section 40-47-01.1, subsections 1 and 7 of section 40-63-01, sections
4 40-63-02, 40-63-03, 40-63-09, 45-22-15, subsection 13 of section 49-21-01, subdivision a of
5 subsection 9 of section 51-25-01, subdivision c of subsection 2 of section 52-06-06.1, and
6 sections 54-44.3-12.2, 57-38-71, 57-38-72, 57-38-73, 57-38-74, 57-39.3-02, 57-40.3-11, and
7 62.1-02-01 of the North Dakota Century Code, relating to technical corrections and improper,
8 inaccurate, redundant, missing, or obsolete references; and to repeal chapter 38-18.2 of the
9 North Dakota Century Code, relating to obsolete provisions.

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

11 **SECTION 1. AMENDMENT.** Section 4-30-03.9 of the 1999 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **4-30-03.9. Entry, inspection, and investigation.** Authorized representatives of the
14 department may enter, at reasonable hours, places of business where a licensee or license
15 applicant maintains books, papers, accounts, records, or other documents related to the
16 production, storage, processing, manufacturing, or sale of dairy products. The commissioner
17 may subpoena, and the commissioner's authorized representative may inspect, audit, and
18 make copies of relevant books, papers, records, accounts, or other documents of persons
19 doing business with licensees. Any information gained by the department or by the
20 commissioner under this section is confidential and may be used only for the administration of
21 this chapter, but the department or the commissioner may divulge the information when
22 testifying in any departmental administrative hearing, in a duly noticed proceeding before the
23 milk ~~stabilization~~ marketing board, or in any court proceeding in which the department or the
24 commissioner is a party. This chapter does not prevent the use of information procured by the

1 department or the commissioner in the compiling or dissemination of general statistical data
2 containing information procured from a number of licensees and compiled in a manner so as
3 not to reveal individual information for any licensee or license applicant.

4 The commissioner may also subpoena and take the testimony under oath of persons
5 believed by the commissioner to have information needed by the commissioner in
6 administering and enforcing this chapter.

7 **SECTION 2. AMENDMENT.** Section 10-19.1-05 of the 1999 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **10-19.1-05. Retention of two-thirds majority.**

10 1. If the articles of a corporation described in section 10-19.1-02 ~~or 10-19.1-03~~ do not
11 contain a provision specifying the proportion of the voting power of the shares
12 required for approval of amendments to the articles, plans of merger or exchange,
13 or sales of assets, a shareholder or shareholders holding more than one-third of
14 the voting power of all the shares entitled to vote for any or all of the
15 above-mentioned actions, by signed written demand filed in duplicate original with
16 the secretary of state, along with the fees provided in section 10-19.1-147, may
17 amend the articles of the corporation to include a provision requiring the approval
18 of the holders of two-thirds of the voting power of the shares entitled to vote for any
19 or all of the above-mentioned actions for which no required majority was specified,
20 notwithstanding any provisions of section 10-19.1-19, 10-19.1-98, or 10-19.1-104
21 to the contrary. Notice that the demand has been filed must be given by the
22 shareholder to an officer of the corporation, but failure to give the notice does not
23 invalidate the demand.

24 2. A shareholder or shareholders holding more than one-third of the voting power of
25 the shares entitled to vote for dissolution of a corporation described in section
26 10-19.1-02 ~~or 10-19.1-03~~, by signed written demand filed in duplicate original with
27 the secretary of state, along with the fees provided in section 10-19.1-147, may
28 amend the articles of the corporation to include a provision requiring the approval
29 of the holders of two-thirds of the voting power of all the shares for the
30 authorization of the dissolution of the corporation, notwithstanding the provisions of
31 section 10-19.1-107. Notice that the demand was filed must be given by the

shareholder to an officer of the corporation, but failure to give the notice does not invalidate the demand.

3. A signed written demand by the shareholders of a corporation pursuant to subsection 1 or 2 is valid only if filed with the secretary of state before July 1, 1986.

SECTION 3. AMENDMENT. Section 15-18-06 of the North Dakota Century Code is amended and reenacted as follows:

15-18-06. Proceeds of levy to be certified to special school district. The proceeds of any tax levy hereby authorized must be certified quarterly to the clerk of any special school district which maintained a junior college or off-campus educational center pursuant to this chapter as it existed on June 30, 1984. The proceeds must be placed in a special junior college fund or an off-campus center fund and must be used to finance any residual or other fiscal obligations of the special school district under the terms of an agreement between the district and the state board of higher education pursuant to section 15-10-01.1.

SECTION 4. AMENDMENT. Section 19-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-30. Conditional discharge for possession as first offense. Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection 3 6 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09, except those disqualifications or disabilities pertaining to the possession of firearms imposed by section 62.1-02-01. There may be only one discharge and dismissal under this section with respect to any person.

1 **SECTION 5. AMENDMENT.** Section 26.1-26-11 of the 1999 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **26.1-26-11. License of agent or broker - Lines of insurance.** An insurance agent,
4 insurance broker, or surplus lines insurance broker may receive a license to market products
5 under one or more of the following lines:

- 6 1. Life and annuity means insurance coverage on human lives including benefits of
7 endowment, annuities, and credit life.
- 8 2. Accident and health means insurance coverage for sickness, disease, injury,
9 accidental death, and disability.
- 10 3. Property means insurance coverage for direct and consequential loss of or
11 damage to property of every kind.
- 12 4. Casualty means insurance coverage against legal liability including that for death,
13 injury, or disability or damage to real or personal property.
- 14 5. Variable life and annuity means insurance coverage provided under variable life
15 insurance contracts, variable annuities, or any other life insurance or annuity that
16 reflects the investment experience of a separate account.

17 The product types found under each of the above lines of insurance are those adopted
18 pursuant to section ~~26.1-15-02.4~~ 26.1-05-02.1.

19 **SECTION 6. AMENDMENT.** Subsection 6 of section 27-20-02 of the 1999
20 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 21 6. "Delinquent act" means an act designated a crime under the law, including local
22 ordinances or resolutions of this state, or of another state if the act occurred in that
23 state, or under federal law, and the crime does not fall under subdivision c of
24 subsection ~~46 17~~ and is not a traffic offense as defined in subsection ~~45 16~~.

25 **SECTION 7. AMENDMENT.** Subsection 1 of section 38-08-09.4 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 1. The efficient unitized management or control of the further development and
28 operation of the unit area for the recovery of oil and gas from the common source
29 of supply affected. Under such a plan, the actual operations within the unit area
30 may be carried on in whole or in part by the unit itself, or by one or more of the
31 lessees within the unit area as unit operator subject to the supervision and

direction of the unit, dependent upon what is most beneficial or expedient. The designation of the unit ~~operation~~ operator must be by a vote of the working interest owners in the unit in a manner provided by the plan of unitization and not by the commission, and the unit operating agreement must contain a provision that the owners of a simple majority of the working interest in the unit area may vote to change the unit operator.

SECTION 8. AMENDMENT. Subsection 5 of section 40-47-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection ~~3~~ 4 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
 - a. The proportional extraterritorial zoning authority of the cities involved in the dispute;

- b. The proximity of the land in dispute to the corporate limits of each city involved;
- c. The proximity of the land in dispute to developed property in the cities involved;
- d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
- e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
- f. The growth pattern of the cities involved in the dispute; and
- g. Any other factor determined to be relevant by the administrative law judge.

SECTION 9. AMENDMENT. Subsections 1 and 7 of section 40-63-01 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. "Boundary" means the boundary established by vote of the city governing body and approved by the ~~office of intergovernmental assistance~~ division of community services.
7. "Zone" means a renaissance zone proposed by a city and designated by the ~~office of intergovernmental assistance~~ division of community services.

SECTION 10. AMENDMENT. Section 40-63-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-02. Eligibility - Local zone authority designation. Any incorporated city may apply to the ~~office of intergovernmental assistance~~ division of community services to designate a portion of the city as a renaissance zone. Any individual, partnership, limited partnership, limited liability company, trust, or corporation may apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing body of a city may designate a local zone authority to implement a development plan on behalf of the city.

SECTION 11. AMENDMENT. Section 40-63-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-03. Renaissance zones.

1. A city may apply to the ~~office of intergovernmental assistance~~ division of community services to designate a portion of that city as a renaissance zone if the following criteria are met:

- 1 a. The geographic area proposed for the renaissance zone is located wholly
- 2 within the boundaries of the city submitting the application.
- 3 b. The application includes a development plan.
- 4 c. The proposed renaissance zone is not more than twenty square blocks.
- 5 d. The proposed renaissance zone has a continuous boundary and all blocks
- 6 are contiguous.
- 7 e. The proposed land usage includes both commercial and residential property.
- 8 f. The application includes the proposed duration of renaissance zone status,
- 9 not to exceed fifteen years.
- 10 2. The ~~office of intergovernmental assistance~~ division of community services shall:
- 11 a. Review all applications for renaissance zone designation against the criteria
- 12 established in this section and designate zones.
- 13 b. Approve or reject the duration of renaissance zone status as submitted in an
- 14 application.
- 15 c. Approve or reject the geographic boundaries and total area of the
- 16 renaissance zone as submitted in an application.
- 17 d. Promote the renaissance zone program.
- 18 e. Monitor the progress of the designated renaissance zones against submitted
- 19 plans in an annual plan review.
- 20 f. Report on renaissance zone progress to the governor and the legislative
- 21 council on an annual basis until all designated zones expire.
- 22 3. The ~~office of intergovernmental assistance~~ division of community services shall
- 23 consider the following criteria in designating a renaissance zone:
- 24 a. The viability of the development plan.
- 25 b. The incorporation and enhancement of unique natural and historic features
- 26 into the development plan.
- 27 c. Whether the development plan is creative and innovative in comparison to
- 28 other applications.
- 29 d. Public and private commitment to and other resources available for the
- 30 proposed renaissance zone, including the provisions for a renaissance fund
- 31 corporation.

- e. How renaissance zone designation would relate to a broader plan for the community as a whole.
 - f. How the local regulatory burden, in particular that burden associated with the renovation of historic properties and that burden associated with mixed use development, will be eased for developers and investors in the renaissance zone.
 - g. The strategies for the promotion, development, and management of the zone, including the use of a local zone authority if designated.
 - h. Any other information required by the ~~office~~ division.
4. The ~~office of intergovernmental assistance~~ division of community services may not designate a portion of a city as a renaissance zone unless, as a part of the application, the city provides a resolution from the governing body of the city that states if the renaissance zone designation is granted, persons and property within the renaissance zone are exempt from taxes as provided in sections 40-63-04 through 40-63-07.
5. A city may not propose or be part of more than one renaissance zone.
6. A parcel of property may be exempted from property taxes under section 40-63-05 only once, but during the five taxable years of eligibility for that exemption, the property tax exemption transfers with the transfer of the property to a qualifying user. The ownership or lease of, or investment in, a parcel of property may qualify for exemption or credit under section 40-63-04 only once, but during the five taxable years of eligibility for that exemption or credit, the exemption or credit under section 40-63-04 transfers with the transfer of the property to a qualified user and with respect to the year in which the transfer is made must be prorated for use of the property during that year.

SECTION 12. AMENDMENT. Section 40-63-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-09. Rules and administration - Income tax secrecy exception. The tax commissioner shall administer this chapter with respect to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of this chapter.

The ~~office of intergovernmental assistance~~ division of community services, in cooperation with

the tax commissioner, shall issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit sufficient for the tax commissioner to monitor the use of any exemptions or credits received by a taxpayer. The secrecy provisions of section 57-38-57 do not apply to exemptions or credits received by taxpayers under sections 40-63-04, 40-63-06, and 40-63-07, but only when a local zone authority inquires of the tax commissioner about exemptions or credits claimed under sections 40-63-04, 40-63-06, and 40-63-07 with regard to that local zone authority or to the extent necessary for the tax commissioner to administer the tax exemptions or credits.

SECTION 13. AMENDMENT. Section 45-22-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-22-15. Limited liability after dissolution. With respect to limited liability after dissolution:

1. Subject to section 45-22-14, the limited liability shield described in sections ~~45-22-08~~ 45-22-08.1 and 45-22-09 continues in full force for the dissolved domestic limited liability partnership regardless of any dissolution, winding up, and termination.
2. If a domestic limited liability partnership dissolves and the domestic limited liability partnership's business is continued by a successor partnership under section 45-20-02, the limited liability described in section ~~45-22-08~~ 45-22-08.1 also applies to that successor domestic limited liability partnership until the withdrawal of the registration that the dissolved domestic limited liability partnership had in effect under section 45-22-03 at the moment of dissolution. The successor partnership may at any time file the partnership's own registration under section 45-22-03.

SECTION 14. AMENDMENT. Subsection 13 of section 49-21-01 of the North Dakota Century Code is amended and reenacted as follows:

13. "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection ~~3~~ 5 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service. Nonessential telecommunications services include, but are not limited to:
 - a. InterLATA and intraLATA message toll service;

- b. Private line transport service;
- c. Calling features and information or enhanced services such as call waiting, call forwarding, three-way calling, intracall, speed calling, call transfer, voice or data store and forward, message delivery, or caller identification;
- d. Centrex services and features, not including transmission service described in subdivision h of subsection ~~3~~ 5;
- e. Installation of service connections in addition or supplementary to that described in subdivision g of subsection ~~3~~ 5 which also provides transmission service between the end user's premises and the local exchange central office switch;
- f. Mobile telecommunications services using radio spectrum or cellular technology; and
- g. Packet-switched services.

SECTION 15. AMENDMENT. Subdivision a of subsection 9 of section 51-25-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where the importer is an original participating manufacturer, as that term is defined in the master settlement agreement, which will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection ll(mm) of the master settlement agreement and which pays the taxes specified in subsection ll(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise the cigarettes in the United States);

SECTION 16. AMENDMENT. Subdivision c of subsection 2 of section 52-06-06.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section ~~462(e)~~ 459(i)(5) of the Social Security Act [42 U.S.C. ~~662(e)~~ 659(i)(5)], properly served upon the bureau.

SECTION 17. AMENDMENT. Section 54-44.3-12.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals. It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the administrative hearing officer must be filed according to chapter 28-32, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter ~~23-32~~ 28-32 unless an employee of one of those two agencies is involved in the grievance.

SECTION 18. AMENDMENT. Section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

57-38-71. Definitions applicable to sections 57-38-71 through 57-38-74. As used in sections 57-38-71 through 57-38-74, unless the context otherwise requires:

1. "Beginning ~~businessman~~ entrepreneur", excluding beginning farmers as defined in subdivision m of subsection 1 of section 57-38-01.2, means any person who:
 - a. Is a resident of this state.
 - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences

business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.

- c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
- d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
- e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

2. "~~Businessman~~ Entrepreneur" means any person owning a revenue-producing enterprise in North Dakota, except that any person who acquires such an enterprise for the purpose of obtaining the income tax deduction provided for in sections 57-38-71 through 57-38-74 is not deemed to be ~~a businessman~~ an entrepreneur.

3. "Revenue-producing enterprise" means any real property, buildings, and improvements on the property or to the buildings, and any equipment located on the property or in the buildings, or any personal property used or useful in connection with a revenue-producing enterprise engaged in any industry or business not prohibited by the Constitution of North Dakota or the laws of this state.

SECTION 19. AMENDMENT. Section 57-38-72 of the North Dakota Century Code is amended and reenacted as follows:

57-38-72. Income tax deduction for revenue-producing enterprise sale to beginning businessman entrepreneur. Any ~~businessman~~ entrepreneur who sells a revenue-producing enterprise to a beginning ~~businessman~~ entrepreneur is entitled to a reduction in the ~~businessman's~~ entrepreneur's taxable income in an amount equal to all income realized and otherwise subject to state income taxes after consideration of any capital gains treatment.

1 **SECTION 20. AMENDMENT.** Section 57-38-73 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-38-73. Rent from beginning ~~businessman~~ entrepreneur exempt from income**
4 **tax.** All income received and otherwise subject to taxation for state income tax purposes
5 resulting from the rental of any revenue-producing enterprise by ~~a businessman~~ an
6 entrepreneur to a beginning ~~businessman~~ entrepreneur under any agreement providing for a
7 lease for at least three years is exempt from income taxes; provided, that no ~~businessman~~
8 entrepreneur may exclude more than twenty-five thousand dollars pursuant to this section in
9 any tax year nor may any ~~businessman~~ entrepreneur claim this deduction for agreements with
10 more than one beginning ~~businessman~~ entrepreneur for rentals of the same revenue-producing
11 enterprise.

12 **SECTION 21. AMENDMENT.** Section 57-38-74 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-38-74. Claim for income tax deduction for revenue-producing enterprise sale**
15 **or rental to a beginning ~~businessman~~ entrepreneur.** To qualify for the deduction provided
16 in sections 57-38-71 through 57-38-74, the taxpayer shall file with the taxpayer's state income
17 tax return a statement from the beginning ~~businessman~~ entrepreneur who purchased or rented
18 the revenue-producing enterprise containing a list of the assets, debts, and net worth of the
19 beginning ~~businessman~~ entrepreneur, together with any other information required by the state
20 tax commissioner. The value placed on any real property located in North Dakota and owned
21 by the buyer must be the amount listed as the current market value on the most recent real
22 estate tax statement for that particular piece of property. To qualify for the deduction for rental
23 income provided in section 57-38-73, the taxpayer shall state on the taxpayer's tax return that
24 any rental arrangement with any other person was not canceled for the purpose of qualifying for
25 this deduction.

26 **SECTION 22. AMENDMENT.** Section 57-39.3-02 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-39.3-02. Rate of in lieu fee.** The in lieu fee is imposed at a rate calculated annually
29 by the tax commissioner. The rate is calculated by dividing the total local option sales and use
30 tax revenues collected pursuant to sections 11-09.1-05 and 40-05.1-06 in the recent fiscal year
31 by total state sales and use tax revenues collected pursuant to sections 57-39.2-02.1 and

57-40.2-02.1, and then multiplying the resulting quotient by the sales and use tax rate established in sections ~~57-39.3-02.4~~ 57-39.2-02.1 and 57-40.2-02.1, and rounding the resulting product to the nearest twenty-five hundredths percent.

SECTION 23. AMENDMENT. Section 57-40.3-11 of the North Dakota Century Code is amended and reenacted as follows:

57-40.3-11. Penalties.

1. Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.
2. Any person who submits a false or fraudulent motor vehicle purchaser's certificate, or who fails to submit the certificate, is subject to a penalty of five percent of the true amount of the tax which was due or five dollars, whichever is greater, plus one percent of such tax for each month or fraction thereof subsequent to the month in which the motor vehicle purchaser's certificate was due or the false or fraudulent motor vehicle purchaser's certificate was furnished to the director of the department of transportation. Such penalty must be paid to either the tax commissioner or the director of the department of transportation and disposed of pursuant to the provisions of ~~subsection 3 of~~ section 57-40.3-10. The tax commissioner, if satisfied that the failure to submit or the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.
3. Whenever a person, including any motor vehicle dealer, has collected from a person acquiring a motor vehicle, a motor vehicle excise tax in excess of the amount prescribed or due under this chapter, and if the person does not refund the excessive tax collected to the person who remitted it, the person who collected the tax shall pay it to the tax commissioner in the quarterly period in which the excessive collection occurred. The penalty and interest provisions of this section apply beginning at the termination of each reporting period.
4. If upon audit the commissioner determines that a motor vehicle excise tax has not been paid or an additional tax is due, the commissioner shall give notice of determination of the tax due to the person liable for the tax. The notice of determination of tax due fixes the tax finally and irrevocably unless within fifteen

days of the date of the notice the person against whom the tax is assessed applies to the commissioner for a hearing under chapter 28-32 or unless the commissioner reduces the liability relating to assessments on the commissioner's own motion.

The provisions of chapter 57-39.2 not in conflict with the provisions of this chapter govern the administration of the tax levied in this chapter.

SECTION 24. AMENDMENT. Section 62.1-02-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

62.1-02-01. ~~Who~~ Persons who are not to possess firearms - Penalty.

1. A person who has been convicted anywhere for a felony involving violence or intimidation, as defined in chapters 12.1-16 through 12.1-25, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or release from incarceration or probation, whichever is the latter.
2. A person who has been convicted of any felony not provided for in subsection 1 or has been convicted of a class A misdemeanor involving violence or intimidation and that crime was committed while using or possessing a firearm or dangerous weapon, as defined in chapters 12.1-16 through 12.1-25, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or release from incarceration or probation, whichever is the latter.
3. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a mentally ill person as defined in section 25-03.1-02, or as a mentally deficient person as defined in section 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years.

1 4. A person under the age of eighteen years may not possess a handgun except that
2 such a person, while under the direct supervision of an adult, may possess a
3 handgun for the purposes of firearm safety training, target shooting, or hunting.

4 A person who violates subsection 1 or 2 is guilty of a class C felony, and a person who violates
5 subsection 3 or 4 is guilty of a class A misdemeanor. For the purposes of this section,
6 "conviction" means determination by a jury or court that a person committed one of the
7 above-mentioned crimes even though the court suspended execution of sentence in
8 accordance with subsection 3 of section 12.1-32-02 or deferred imposition of sentence in
9 accordance with subsection 4 of section 12.1-32-02, placed the defendant on probation,
10 granted a conditional discharge in accordance with section 19-03.1-30, the defendant's
11 conviction has been reduced in accordance with subsection ~~40~~ 9 of section 12.1-32-02 or
12 section 12.1-32-07.1, or a determination under chapter 27-20 that the person committed a
13 delinquent act equivalent to the offenses provided in subsection 1 or 2.

14 **SECTION 25. REPEAL.** Chapter 38-18.2 of the North Dakota Century Code is
15 repealed.