

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2076

Introduced by

Finance and Taxation Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact subsections 1 and 2 of section 57-36-25, subsections 1
2 and 2 of section 57-36-26, subsection 1 of section 57-36-27, and section 57-36-32 of the North
3 Dakota Century Code, relating to rates of taxation on tobacco products.

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

5 **SECTION 1. AMENDMENT.** Subsections 1 and 2 of section 57-36-25 of the North
6 Dakota Century Code are amended and reenacted as follows:

7 1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this
8 state an excise tax at the rate of ~~twenty-eight~~ fifty percent of the wholesale
9 purchase price at which such cigars and pipe tobacco are purchased by
10 distributors. For the purposes of this section, the term "wholesale purchase price"
11 shall mean the established price for which a manufacturer sells cigars or pipe
12 tobacco to a distributor exclusive of any discount or other reduction.

13 2. There is levied and assessed upon all other tobacco products sold in this state an
14 excise tax at the following rates:

15 a. Upon each can or package of snuff, ~~sixty~~ one dollar and eight cents per ounce
16 and a proportionate tax at the like rate on all fractional parts of an ounce.

17 b. On chewing tobacco, ~~sixteen~~ twenty-nine cents per ounce and a proportionate
18 tax at the like rate on all fractional parts of an ounce.

19 For purposes of this subsection, the tax on other tobacco products is computed
20 based on the net weight as listed by the manufacturer.

21 **SECTION 2. AMENDMENT.** Subsections 1 and 2 of section 57-36-26 of the North
22 Dakota Century Code are amended and reenacted as follows:

23 1. There is levied and assessed upon all cigars and pipe tobacco purchased in
24 another state and brought into this state by a dealer for the purpose of sale at

1 retail, an excise tax at the rate of ~~twenty-eight~~ fifty percent of the wholesale
2 purchase price, and upon all other tobacco products purchased in another state
3 and brought into this state by a dealer for the purpose of sale at retail, an excise
4 tax at the rates indicated in section 57-36-25, at the time the products were brought
5 into this state. For the purposes of this section, the term "wholesale purchase
6 price" means the established price for which a manufacturer sells cigars or pipe
7 tobacco to a distributor exclusive of any discount or other reduction. However, the
8 dealer may elect to report and remit the tax on the cost price of the products to the
9 dealer rather than on the wholesale purchase price. The proceeds of the tax,
10 together with the forms of return and in accordance with any rules and regulations
11 the tax commissioner may prescribe, must be remitted to the tax commissioner by
12 the dealer on a monthly basis on or before the fifteenth day of the month following
13 the monthly period for which it is paid. The tax commissioner shall have the
14 authority to place any dealer on an annual remittance basis when in the judgment
15 of the tax commissioner the operations of the dealer merit that remittance period.
16 In addition, the tax commissioner shall have the authority to permit the
17 consolidation of the filing of a dealer's return when the dealer has more than one
18 location and thereby would be required to file more than one return.

- 19 2. If cigars, pipe tobacco, or other tobacco products have been subjected already to a
20 tax by any other state in respect to their sale in an amount less than the tax
21 imposed by this section, the provisions of this section apply, but at a rate measured
22 by the difference only between the rate fixed in this section and the rate by which
23 the previous tax upon the sale was computed. If the tax imposed in the other state
24 is ~~twenty percent of~~ equal to or greater than the wholesale purchase price or more
25 rates in section 57-36-25, then no tax is due on the article. The provisions of this
26 subsection apply only if the other state allows a tax credit with respect to the excise
27 tax on cigars, pipe tobacco, or other tobacco products imposed by this state which
28 is substantially similar in effect to the credit allowed by this subsection.

29 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-36-27 of the North Dakota
30 Century Code is amended and reenacted as follows:

1 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this
2 state, and upon ~~such~~ those consumers, at the ~~following~~ rates:

- 3 a. ~~On cigarettes weighing not more than three pounds [1360.78 grams] per~~
4 ~~thousand, five mills on each such cigarette.~~
5 b. ~~On cigarettes weighing more than three pounds [1360.78 grams] per~~
6 ~~thousand, five and one half mills on each such cigarette~~ in sections 57-36-06
7 and 57-36-32.

8 **SECTION 4. AMENDMENT.** Section 57-36-32 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-36-32. Separate and additional tax on the sale of cigarettes - Collection -**
11 **Allocation of revenue - Tax avoidance prohibited.** There is hereby levied and assessed and
12 there shall be collected by the state tax commissioner and paid to the state treasurer, upon all
13 cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of
14 ~~seventeen~~ thirty-four and one-half mills on each cigarette, to be collected as existing taxes on
15 cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under
16 similar accounting procedures. No person, firm, corporation, or limited liability company shall
17 transport or bring or cause to be shipped into the state of North Dakota any cigarettes as
18 provided herein, other than for delivery to wholesalers in this state, without first paying the tax
19 thereon to the state tax commissioner. All of the moneys collected by the state treasurer under
20 this section shall be credited to the state general fund.