

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Cook

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 and a new
2 subsection to section 57-40.2-04 of the North Dakota Century Code, relating to gross receipts
3 from the sale of items delivered electronically.

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

5 **SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code
6 is created and enacted as follows:

7 Gross receipts from the sale of items delivered electronically, including specified
8 digital products. For purposes of this subsection:

9 a. "Specified digital products" means:

10 (1) "Digital Audi-Visual Works" which means a series of related images
11 which, when shown in succession, impart an impression of motion,
12 together with accompanying sounds, if any;

13 (2) "Digital Audio Works" which means works that result from the fixation of
14 a series of musical, spoken, or other sounds, including ringtones, and

15 (3) "Digital Books" which means works that are generally recognized in the
16 ordinary and usual sense as "books."

17 b. For purposes of the definition of "specified digital products," "transferred
18 electronically" means obtained by the purchaser by means other than tangible
19 storage media.

20 c. For purposes of the definition of "digital audio works," "ringtones" means
21 digitized sound files that are downloaded onto a device and that may be used
22 to alert the customer with respect to a communication.

- 1 d. "Specified digital products" shall not be construed to include prewritten
2 computer software as that term is defined in subdivision (g) of subsection (1)
3 of section 57-39.2-02.1.

4 **SECTION 2.** A new subsection to section 57-40.2-04 of the North Dakota Century Code
5 is created and enacted as follows:

6 Gross receipts from the sale of items delivered electronically, including specified
7 digital products. For purposes of this subsection:

8 a. "Specified digital products" means:

9 (1) "Digital Audio-Visual Works" which means a series of related images
10 which, when shown in succession, impart an impression of motion,
11 together with accompanying sounds, if any;

12 (2) "Digital Audio Works" which means works that result from the fixation of
13 a series of musical, spoken, or other sounds, including ringtones, and

14 (3) "Digital Books" which means works that are generally recognized in the
15 ordinary and usual sense as "books".

16 b. For purposes of the definition of "specified digital products," "transferred
17 electronically" means obtained by the purchaser by means other than tangible
18 storage media.

19 c. For purposes of the definition of "digital audio works," "ringtones" means
20 digitized sound files that are downloaded onto a device and that may be used
21 to alert the customer with respect to a communication.

22 d. "Specified digital products" shall not be construed to include prewritten
23 computer software as that term is defined in as that term is defined in
24 subdivision (g) of subsection (1) of section 57-39.2-02.1.