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FIRST ENGROSSMENT

Sixty-third Legislative Assembly of North Dakota

ENGROSSED HOUSE BILL NO. 1419

Introduced by

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Representatives Wieland, Headland, Klein, K. Koppelman, Owens, Thoreson Senator Klein

- 1 A BILL for an Act to amend and reenact subsection 21 of section 57-39.2-01 of the North
- 2 Dakota Century Code, relating to sales tax application to tangible personal property delivered to
- 3 out-of-state purchasers for incorporation into or attachment to real property in another state;
- 4 and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Subsection 21 of section 57-39.2-01 of the North Dakota 7 Century Code is amended and reenacted as follows: 8 21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other 9 than for resale, sublease, or subrental. 10 "Retail sale" or "sale at retail" includes the: a. 11 <u>The</u> sale, including the leasing or renting, to a consumer or to any person 12 for any purpose, other than for processing or for resale, of tangible personal 13 property; the 14 (2) The sale of steam, gas, and communication service to retail consumers or 15 users: the 16 The sale of vulcanizing, recapping, and retreading services for tires; the (3)17 (4) The ordering, selecting, or aiding a customer to select any goods, wares, or 18 merchandise from any price list or catalog, which the customer might order, 19 or be ordered for such customer to be shipped directly to such customer; 20 the 21 The sale or furnishing of hotel, motel, or tourist court accommodations; <u>(5)</u> 22 The sale of tickets, or admissions to any place of amusement, athletic (6)23 event, or place of entertainment; and the

1 (7) The sales of magazines and other periodicals. By the term "processing" is 2 meant 3 <u>b.</u> "Processing" means any tangible personal property, including containers, which it 4 is intended, by means of fabrication, compounding, manufacturing, producing, or 5 germination shall become an integral or an ingredient or component part of other 6 tangible personal property intended to be sold ultimately at retail. 7 The sale of an item of tangible personal property for the purpose of incorporating C. 8 it in or attaching it to real property must be considered as a sale of tangible 9 personal property for a purpose other than for processing or resale; the 10 d. The delivery of possession within the state of North Dakota of tangible 11 personal property by a wholesaler or distributor to an out-of-state retailer 12 who does not hold a North Dakota retailvalid sales tax permit in any state or 13 to a person who by contract incorporates such tangible personal property 14 into, or attaches it to, real property situated in another state may not be 15 considered a taxable sale if such delivery of possession would not be 16 treated as a taxable sale in that state. As used in this subsection, the word-17 "consumer" 18 (2)The delivery of possession outside the state of North Dakota of tangible 19 personal property by a North Dakota wholesaler or distributor to an 20 out-of-state person who by contract with the North Dakota wholesaler or 21 distributor incorporates such tangible personal property into, or attaches it 22 to, real property situated in another state is not a taxable sale if such 23 delivery of possession would be treated as a taxable sale in that state. For 24 purposes of this paragraph, delivery of possession outside the state of North 25 <u>Dakota of tangible personal property by a North Dakota wholesaler or</u> 26 distributor to an out-of-state person who by contract incorporates such 27 tangible personal property into, or attaches it to, real property situated in 28 another state is the conclusion of the sales transaction for purposes of this 29 chapter. 30 "Consumer" includes any hospital, infirmary, sanatorium, nursing home, home for <u>e.</u> 31 the aged, or similar institution that furnishes services to any patient or occupant.

Sixty-third Legislative Assembly

1	<u>f.</u>	The sale of an item of tangible personal property to a person under a finance
2		leasing agreement over the term of which the property will be substantially
3		consumed must be considered a retail sale if the purchaser elects to treat it as
4		such by paying or causing the transferor to pay the sales tax thereon to the
5		commissioner on or before the last day on which payments may be made without
6		penalty as provided in section 57-39.2-12.
7	SECTION	2. EFFECTIVE DATE. This Act is effective for taxable events occurring after
8	June 30, 2013	3.