

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1419

Introduced by

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.

5 **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 a. "Retail sale" or "sale at retail" includes ~~the~~:

11 (1) The 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 (3) The sale of vulcanizing, recapping, and retreading services for tires; ~~the~~

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 (5) The sale or furnishing of hotel, motel, or tourist court accommodations; ~~;~~

22 (6) The sale of tickets; or admissions to any place of amusement, athletic
23 event, or place of entertainment; and ~~the~~

(7) The sales of magazines and other periodicals. By the term "processing" is-
meant

b. "Processing" means any tangible personal property, including containers, which it
is intended, by means of fabrication, compounding, manufacturing, producing, or
germination shall become an integral or an ingredient or component part of other
tangible personal property intended to be sold ultimately at retail.

c. The sale of an item of tangible personal property for the purpose of incorporating
it in or attaching it to real property must be considered as a sale of tangible
personal property for a purpose other than for processing; the

d. (1) The delivery of possession within the state of North Dakota of tangible
personal property by a wholesaler or distributor to an out-of-state retailer
who does not hold a North Dakota retail sales tax permit or to a person who
by contract incorporates such tangible personal property into, or attaches it
to, real property situated in another state may not be considered a taxable
sale if such delivery of possession would not be treated as a taxable sale in
that state. As used in this subsection, the word "consumer"

(2) (a) The delivery of possession outside the state of North Dakota of
tangible personal property by a North Dakota wholesaler or distributor
to an out-of-state person who by contract incorporates such tangible
personal property into, or attaches it to, real property situated in
another state is not a taxable sale if such delivery of possession
would be treated as a taxable sale in that state. For purposes of this
subparagraph, delivery of possession outside the state of North
Dakota of tangible personal property by a North Dakota wholesaler or
distributor to an out-of-state person who by contract incorporates such
tangible personal property into, or attaches it to, real property situated
in another state is the conclusion of the sales transaction for purposes
of this chapter.

(b) The delivery of possession outside the state of North Dakota of
tangible personal property by a North Dakota wholesaler or distributor
to an out-of-state purchaser is a taxable sale if the North Dakota

1 wholesaler or distributor is a licensed contractor in the state of
2 delivery and incorporates such tangible personal property into, or
3 attaches it to, real property situated in that state unless such delivery
4 of possession would be treated as a taxable sale in that state

5 e. "Consumer" includes any hospital, infirmary, sanatorium, nursing home, home for
6 the aged, or similar institution that furnishes services to any patient or occupant.

7 f. The sale of an item of tangible personal property to a person under a finance
8 leasing agreement over the term of which the property will be substantially
9 consumed must be considered a retail sale if the purchaser elects to treat it as
10 such by paying or causing the transferor to pay the sales tax thereon to the
11 commissioner on or before the last day on which payments may be made without
12 penalty as provided in section 57-39.2-12.

13 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
14 June 30, 2013.