

HOUSE BILL NO. 1300

Introduced by

Representatives Dosch, Clark

Senator J. Lee

1 A BILL for an Act to amend and reenact section 57-36-27 of the North Dakota Century Code,
2 relating to consumer's use tax on cigarettes possessed in this state on which tobacco products
3 taxes have not been paid; to provide an effective date; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 57-36-27 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-36-27. Consumer's use tax - Cigarettes - Reports - Remittances - Penalty.**

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

10 a. ~~On cigarettes weighing not more than three pounds [1360.78 grams] per~~
11 ~~thousand, five mills on each such cigarette.~~

12 b. ~~On cigarettes weighing more than three pounds [1360.78 grams] per~~
13 ~~thousand, five and one half mills on each such cigarette provided in sections~~
14 ~~57-36-06 and 57-36-32.~~

15 2. This tax does not apply if the tax imposed by ~~section 57-36-06~~ this chapter has
16 been paid.

17 3. This tax does not apply to the use or storage of cigarettes ~~in quantities of two~~
18 ~~hundred or less in the possession of any one consumer nor to cigarettes exempt~~
19 pursuant to section 57-36-24.

20 4. On or before the tenth day of each calendar quarter, every consumer who during
21 the preceding calendar quarter has acquired title or possession of cigarettes for
22 use or storage in this state, upon which cigarettes the tax imposed by ~~section~~
23 ~~57-36-06~~ this chapter has not been paid, shall file a return with the tax
24 commissioner showing the quantity of cigarettes so acquired. The return must be

- 1 made upon a form furnished and prescribed by the tax commissioner and must
2 contain such other information as the tax commissioner may require. The return
3 must be accompanied by a remittance for the full unpaid tax liability shown by it.
- 4 5. As soon as practicable after any return is filed, the tax commissioner shall examine
5 the return and correct it, if necessary, according to the tax commissioner's best
6 judgment and information.
- 7 6. In case any consumer required to pay the tax levied by this section fails to file a
8 return or remit the tax as herein required, the tax commissioner has the authority to
9 make an assessment of tax against the consumer according to the commissioner's
10 best judgment and information.
- 11 7. All of the provisions of this chapter relating to corrections of returns, deficiency
12 assessments, protests thereto, hearings thereon, interest and penalties, and
13 collections of taxes are applicable to consumers under this section in like manner
14 as though set out in full herein.
- 15 8. A consumer in possession of cigarettes in this state for personal use and not for
16 resale is entitled to a credit against taxes due under this chapter in the amount of
17 taxes paid on those cigarettes in another state or country. However, the credit
18 under this subsection applies only if the state or country in which the taxes were
19 paid allows a tax credit with respect to taxes imposed by this chapter which which
20 is substantially similar in effect to the credit allowed by this subsection.
- 21 9. Possession, use, or storage of cigarettes on which tax has not been paid under this
22 chapter is an infraction for a first offense and a class B misdemeanor for a second
23 or subsequent offense by the same person.

24 **SECTION 2. EFFECTIVE DATE.** This Act is effective for possession, use, or storage
25 of cigarettes in this state after June 30, 2003.