

HOUSE BILL NO. 1150

Introduced by

Representatives Dockter, Boehning, Schmidt, Seibel

Senators Cook, Poolman, Schaible

1 A BILL for an Act to amend and reenact sections 57-39.5-02, 57-39.6-02, and subsection 1 of
2 section 57-40.6-14 of the North Dakota Century Code, relating to elimination of the sales tax
3 exemption and creation of a farm machinery gross receipts tax exemption for purchases by
4 residents of an adjoining state that does not impose a retail sales tax; to repeal subsection 12 of
5 section 57-39.2-04 of the North Dakota Century Code, relating to elimination of the sales tax
6 exemption for purchases by residents of an adjoining state that does not impose a retail sales
7 tax; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 57-39.5-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-39.5-02. Imposition - Exemptions.**

12 There is imposed a tax of three percent upon the gross receipts of retailers from all sales at
13 retail, including the leasing or renting, of farm machinery or irrigation equipment used
14 exclusively for agricultural purposes. Gross receipts from sales at retail of farm machinery or
15 irrigation equipment are exempted from the tax imposed by this chapter when the sale, lease, or
16 rental is made to a purchaser or lessor who is entitled to a sales and use tax exemption under
17 subsection 6 ~~or 12~~ of section 57-39.2-04 on otherwise taxable sales at retail.

18 1. There are specifically exempted from the tax imposed by this chapter the gross
19 receipts from the sale, lease, or rental of used farm machinery, farm machinery repair
20 parts, used irrigation equipment, or irrigation equipment repair parts used exclusively
21 for agricultural purposes. For purposes of this section, "used" means:

22 1.a. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous
23 sale;

24 2.b. Tax under section 57-39.5-06 has been paid under a previous lease;

1 3.c. Originally purchased outside this state and previously owned by a farmer; or

2 4.d. Has been under rental for three years or more.

3 2. Gross receipts from a sale otherwise taxable under this chapter made to a person
4 from an adjoining state that does not impose or levy a retail sales tax, under the
5 following conditions:

6 a. The person is in the state of North Dakota for the express purpose of making a
7 purchase.

8 b. The person furnishes to the North Dakota retailer a certificate signed by the
9 person in a form as the commissioner may prescribe reciting sufficient facts
10 establishing the exempt status of the sale. Unless the certificate is furnished it
11 must be presumed, until the contrary is shown, that the person was not in the
12 state of North Dakota for the express purpose of making a purchase.

13 c. The sale is fifty dollars or more.

14 **SECTION 2. AMENDMENT.** Section 57-39.6-02 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **57-39.6-02. Gross receipts tax on alcoholic beverages - Exemption.**

17 There is imposed a tax of seven percent on the gross receipts of retailers from all sales at
18 retail of alcoholic beverages. Gross receipts from sales at retail of alcoholic beverages are
19 exempted from the tax imposed by this chapter when the sale is made to a purchaser who is
20 entitled to a sales and use tax exemption under subsection 6 ~~or 12~~ of section 57-39.2-04 on
21 otherwise taxable sales.

22 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-40.6-14 of the North Dakota
23 Century Code is amended and reenacted as follows:

24 1. There is imposed a prepaid wireless emergency 911 fee of two percent on the gross
25 receipts of sellers from all sales at retail of prepaid wireless services in this state.

26 a. A retail transaction that is made, in person, by a consumer at a business location
27 of the seller shall be treated as occurring in this state if that business location is
28 in this state. Any other retail transaction shall be treated as occurring in this state
29 if the retail transaction is treated as occurring in this state under the provisions of
30 chapter 57-39.4 as those provisions apply to a prepaid wireless calling service.

1 b. Prepaid wireless emergency 911 fees collected by sellers shall be remitted to the
2 commissioner.

3 c. An entity required to collect and remit the prepaid wireless emergency 911 fee
4 shall register with the commissioner. The registration shall be made in the form
5 prescribed by the commissioner, in which the registrant shall identify the name
6 under which the registrant transacts or intends to transact business, the location
7 of the business, the federal identification number, and other information as the
8 commissioner may require.

9 d. Gross receipts from sales at retail of prepaid wireless services are exempt from
10 the prepaid wireless emergency 911 fee imposed by this section when the sale is
11 made to a person entitled to a sales and use tax exemption under subsection 6
12 or 12 of section 57-39.2-04.

13 **SECTION 4. REPEAL.** Subsection 12 of section 57-39.2-04 of the North Dakota Century
14 Code is repealed.

15 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
16 June 30, 2015.