

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2298

Introduced by

Senators Cook, Bekkedahl, Laffen

Representatives Dockter, Hatlestad, Headland

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new section to
2 chapter 57-40.2 of the North Dakota Century Code, relating to sales and use tax collection
3 obligations of certain out-of-state sellers; and to provide an effective date.

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

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

7 **Certain sellers located outside this state required to collect and remit sales taxes -**

8 **Criteria.**

9 Notwithstanding any other provision of law, any seller of tangible personal property or other
10 taxable product for delivery in this state, which does not have a physical presence in this state,
11 is subject to this chapter and chapter 57-40.2 and shall remit sales or use tax. The seller shall
12 follow all applicable procedures and requirements of law as if the seller has a physical presence
13 in this state, if the seller meets either of the following criteria in the previous calendar year or the
14 current calendar year:

- 15 1. The seller's gross sales from the sale of tangible personal property and other taxable
16 items delivered in this state exceed one hundred thousand dollars; or
- 17 2. The seller sold tangible personal property and other taxable items for delivery in this
18 state in two hundred or more separate transactions.

19 **SECTION 2.** A new section to chapter 57-40.2 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Certain sellers located outside this state required to collect and remit sales taxes -**

22 **Criteria.**

23 Notwithstanding any other provision of law, any seller of tangible personal property or other
24 taxable product for delivery in this state, which does not have a physical presence in this state,

1 is subject to this chapter and chapter 57-39.2 and shall remit sales or use tax. The seller shall
2 follow all applicable procedures and requirements of law as if the seller had a physical presence
3 in this state, if the seller meets either of the following criteria in the previous calendar year or the
4 current calendar year:

- 5 1. The seller's gross sales from the sale of tangible personal property and other taxable
6 items delivered in this state exceed one hundred thousand dollars; or
7 2. The seller sold tangible personal property and other taxable items for delivery in this
8 state in two hundred or more separate transactions.

9 ~~SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after~~
10 ~~June 30, 2017.~~

11 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on the date the
12 United States Supreme Court issues an opinion overturning Quill v. North Dakota, 504 U.S. 298
13 (1992), or otherwise confirming a state may constitutionally impose its sales or use tax upon an
14 out-of-state seller in circumstances similar to those specified in section 1 of this Act.