

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1049

Page 1, line 1, after "15-18-06" insert ",19-03.1-30"

Page 1, line 4, remove "and", after "40-63-09" insert ", 45-22-15", and after "49-21-01" insert ", subdivision a of subsection 9 of section 51-25-01"

Page 1, line 5, after "sections" insert "54-44.3-12.2, 57-38-71, 57-38-72, 57-38-73, 57-38-74,"

Page 3, after line 13, insert:

"SECTION 4. AMENDMENT. Section 19-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-30. Conditional discharge for possession as first offense.

Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection ~~3~~ 6 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09, except those disqualifications or disabilities pertaining to the possession of firearms imposed by section 62.1-02-01. There may be only one discharge and dismissal under this section with respect to any person."

Page 8, after line 23, insert:

"SECTION 13. AMENDMENT. Section 45-22-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-22-15. Limited liability after dissolution. With respect to limited liability after dissolution:

1. Subject to section 45-22-14, the limited liability shield described in sections ~~45-22-08~~ 45-22-08.1 and 45-22-09 continues in full force for the dissolved domestic limited liability partnership regardless of any dissolution, winding up, and termination.
2. If a domestic limited liability partnership dissolves and the domestic limited liability partnership's business is continued by a successor partnership under section 45-20-02, the limited liability described in section ~~45-22-08~~ 45-22-08.1 also applies to that successor domestic limited liability partnership until the withdrawal of the registration that the dissolved

domestic limited liability partnership had in effect under section 45-22-03 at the moment of dissolution. The successor partnership may at any time file the partnership's own registration under section 45-22-03."

Page 9, after line 13, insert:

"SECTION 15. AMENDMENT. Subdivision a of subsection 9 of section 51-25-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where the importer is an original participating manufacturer, as that term is defined in the master settlement agreement, which will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection 11(mm) of the master settlement agreement and which pays the taxes specified in subsection 11(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise the cigarettes in the United States);"

Page 9, after line 19, insert:

"SECTION 17. AMENDMENT. Section 54-44.3-12.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals. It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the administrative hearing officer must be filed according to chapter 28-32, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter ~~23-32~~ 28-32 unless an employee of one of those two agencies is involved in the grievance.

SECTION 18. AMENDMENT. Section 57-38-71 of the North Dakota Century Code is amended and reenacted as follows:

57-38-71. Definitions applicable to sections 57-38-71 through 57-38-74. As used in sections 57-38-71 through 57-38-74, unless the context otherwise requires:

1. "Beginning ~~businessman~~ entrepreneur", excluding beginning farmers as defined in subdivision m of subsection 1 of section 57-38-01.2, means any person who:

- a. Is a resident of this state.
 - b. Receives more than one-half of that person's gross annual income from a revenue-producing enterprise, unless the person initially commences business during the tax year for which a deduction will be claimed under sections 57-38-71 through 57-38-74.
 - c. Intends to use any revenue-producing enterprise purchased or rented for business purposes.
 - d. Has had adequate training, by experience or education, in the type of revenue-producing enterprise which that person wishes to begin.
 - e. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.
2. "~~Businessman~~ Entrepreneur" means any person owning a revenue-producing enterprise in North Dakota, except that any person who acquires such an enterprise for the purpose of obtaining the income tax deduction provided for in sections 57-38-71 through 57-38-74 is not deemed to be ~~a businessman~~ an entrepreneur.
 3. "Revenue-producing enterprise" means any real property, buildings, and improvements on the property or to the buildings, and any equipment located on the property or in the buildings, or any personal property used or useful in connection with a revenue-producing enterprise engaged in any industry or business not prohibited by the Constitution of North Dakota or the laws of this state.

SECTION 19. AMENDMENT. Section 57-38-72 of the North Dakota Century Code is amended and reenacted as follows:

57-38-72. Income tax deduction for revenue-producing enterprise sale to beginning ~~businessman~~ entrepreneur. Any ~~businessman~~ entrepreneur who sells a revenue-producing enterprise to a beginning ~~businessman~~ entrepreneur is entitled to a reduction in the ~~businessman's~~ entrepreneur's taxable income in an amount equal to all income realized and otherwise subject to state income taxes after consideration of any capital gains treatment.

SECTION 20. AMENDMENT. Section 57-38-73 of the North Dakota Century Code is amended and reenacted as follows:

57-38-73. Rent from beginning ~~businessman~~ entrepreneur exempt from income tax. All income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any revenue-producing enterprise by a ~~businessman~~ an entrepreneur to a beginning ~~businessman~~ entrepreneur under any agreement providing for a lease for at least three years is exempt from income taxes; provided, that no ~~businessman~~ entrepreneur may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any ~~businessman~~ entrepreneur claim this deduction for agreements with more than one beginning ~~businessman~~ entrepreneur for rentals of the same revenue-producing enterprise.

SECTION 21. AMENDMENT. Section 57-38-74 of the North Dakota Century Code is amended and reenacted as follows:

57-38-74. Claim for income tax deduction for revenue-producing enterprise sale or rental to a beginning ~~businessman~~ entrepreneur. To qualify for the deduction provided in sections 57-38-71 through 57-38-74, the taxpayer shall file with the taxpayer's state income tax return a statement from the beginning ~~businessman~~ entrepreneur who purchased or rented the revenue-producing enterprise containing a list of the assets, debts, and net worth of the beginning ~~businessman~~ entrepreneur, together with any other information required by the state tax commissioner. The value placed on any real property located in North Dakota and owned by the buyer must be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. To qualify for the deduction for rental income provided in section 57-38-73, the taxpayer shall state on the taxpayer's tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction."

Renumber accordingly