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Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1082
with Senate Amendments

HOUSE BILL NO. 1082

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

A BILL for an Act to amend and reenact subdivision c of subsection 1 of section 57-39.2-02.1, section 57-39.2-03.3, subsection 1 of section 57-40.3-01, subsection 4 of section 57-40.3-11, subsections 12, 13, 16, and 18 of section 57-43.1-01, subsection 2 of section 57-43.1-02, section 57-43.1-05, subsections 16, 17, and 20 of section 57-43.2-01, and subsection 2 of section 57-43.2-02 of the North Dakota Century Code, relating to sales tax on sales through vending machines, the definition of low-speed vehicle and the time for audit and protest for motor vehicle excise tax purposes, motor vehicle fuel tax definitions, the motor vehicle fuel tax and special fuels tax imposed on fuels produced by a refiner, and minimum refunds for motor vehicle fuel tax purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision c of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to ~~eighty~~ forty percent of the gross receipts collected from coin-operated amusement devices.

SECTION 2. AMENDMENT. Section 57-39.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-03.3. Sales tax on sales through vending machines. ~~Beginning July 1, 1969, gross~~ Gross receipts from the sale of tangible personal property costing sixteen cents or more sold through a coin-operated vending machine are subject to the sales tax imposed by chapter 57-39.2, and gross receipts from the sale of tangible personal property costing fifteen cents or less sold through a coin-operated vending machine are specifically exempted from the provisions of this chapter.

SECTION 3. AMENDMENT. Subsection 1 of section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Low-speed vehicle" means a four-wheeled vehicle that is able to attain a speed, upon a paved surface, of more than twenty miles per hour [32 kilometers per hour] in one mile [1.6 kilometers] and not more than twenty-five miles per hour [40 kilometers per hour] in one mile [1.6 kilometers] and may not exceed ~~one~~ three thousand ~~five hundred~~ pounds [~~680.39~~ 1360.77 kilograms] in ~~unloaded~~ weight when fully loaded with passengers and any cargo.

SECTION 4. AMENDMENT. Subsection 4 of section 57-40.3-11 of the North Dakota Century Code is amended and reenacted as follows:

4. If upon audit the tax commissioner determines that a motor vehicle excise tax has not been paid or an additional tax is due, the tax commissioner shall give notice of determination of the tax due to the person liable for the tax. The notice of determination must be given no later than three years from the date the motor vehicle was purchased, acquired, or the date the vehicle was required to be titled or registered with the director of the department of transportation, whichever is later. If it is determined that the motor vehicle excise tax due is twenty-five percent or more above the amount that had been paid, the notice of determination must be given no later than six years from the date the motor vehicle was purchased, acquired, or the date the vehicle was required to be titled or registered with the director of the department of transportation, whichever is later. The notice of determination of tax due fixes the tax finally and irrevocably unless within ~~fifteen~~ thirty days of the date of the notice the person against whom the tax is assessed applies to the tax commissioner for a hearing under chapter 28-32 or unless the tax commissioner reduces the liability relating to assessments on the tax commissioner's own motion. The provisions of chapter 57-39.2 not in conflict with the provisions of this chapter govern the administration of the tax levied in this chapter.

SECTION 5. AMENDMENT. Subsections 12, 13, 16, and 18 of section 57-43.1-01 of the North Dakota Century Code are amended and reenacted as follows:

12. "Import" means the delivery of motor vehicle fuel across the boundaries of this state from a place of origin outside this state by a refiner, supplier, ~~or~~ distributor, or consumer.

13. "Importer" means a refiner, supplier, ~~or~~ distributor, or consumer who imports motor vehicle fuel into this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.

16. "Licensed motor vehicle" means any motor vehicle required to be licensed for operation upon public roads or highways, but does not include a vehicle with a permanently mounted manure spreader or stack moving unit.

18. "Motor vehicle fuel" means all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses, and any liquid which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American society for testing materials designation D-86), shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit [175 degrees Celsius] and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit [240 degrees Celsius] but does not include aviation fuel or fuel used as a component of or additive to another product when the use is not intended to result in combustion. It includes agriculturally derived alcohol blended with gasoline, used in a pure state, or if blended with another agriculturally derived liquid.

SECTION 6. AMENDMENT. Subsection 2 of section 57-43.1-02 of the North Dakota Century Code is amended and reenacted as follows:

2. A refiner, supplier, or distributor shall remit the tax imposed by this section on motor vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to a consumer.

SECTION 7. AMENDMENT. Section 57-43.1-05 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-05. Claim for refund - Limitation on filing. A refund claim must be filed, for all motor vehicle fuel purchases during a calendar year, on or after January first and before July first of the next year following the year during which the purchase was made, or the claim for refund is barred unless the commissioner grants an extension of time for cause. However, any claim for refund may be filed in the calendar year of motor vehicle fuel purchase when:

1. The business is being discontinued;
2. No further purchases subject to fuel tax refund will be made in the remainder of the calendar year; or
3. The claim for refund exceeds four hundred dollars.

No claim for refund may be made or approved unless the amount of the claim is ~~in excess of~~ at least five dollars.

SECTION 8. AMENDMENT. Subsections 16, 17, and 20 of section 57-43.2-01 of the North Dakota Century Code are amended and reenacted as follows:

16. "Import" means the delivery of special fuel across the boundaries of this state from a place of origin outside this state by a refiner, supplier, ~~or~~ distributor, or consumer.
17. "Importer" means a refiner, supplier, ~~or~~ distributor, or consumer who imports special fuel into this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.
20. "Licensed motor vehicle" means any motor vehicle required to be licensed for operation upon public roads or highways, but does not include a vehicle with a permanently mounted manure spreader or stack moving unit.

SECTION 9. AMENDMENT. Subsection 2 of section 57-43.2-02 of the North Dakota Century Code is amended and reenacted as follows:

2. A refiner, supplier, distributor, or retailer shall remit the tax imposed by this section on special fuel used and on direct sales of special fuel to a customer.

SECTION 10. EFFECTIVE DATE. Section 4 of this Act is effective for assessments of motor vehicle excise tax issued after June 30, 2009. Sections 5, 6, 8, and 9 of this Act are effective for taxable periods beginning after June 30, 2009. Section 7 of this Act is effective for refund claims made after June 30, 2009.