

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Cook

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 and a new  
2 subsection to section 57-40.2-04 of the North Dakota Century Code, relating to gross receipts  
3 from the sale of items delivered electronically.

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

5 **SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code  
6 is created and enacted as follows:

7 Gross receipts from the sale of items delivered electronically, including specified  
8 digital products. For purposes of this subsection:

9 a. "Specified digital products" means:

10 (1) "Digital Audi-Visual Works" which means a series of related images  
11 which, when shown in succession, impart an impression of motion,  
12 together with accompanying sounds, if any;

13 (2) "Digital Audio Works" which means works that result from the fixation of  
14 a series of musical, spoken, or other sounds, including ringtones, and

15 (3) "Digital Books" which means works that are generally recognized in the  
16 ordinary and usual sense as "books."

17 b. For purposes of the definition of "specified digital products," "transferred  
18 electronically" means obtained by the purchaser by means other than tangible  
19 storage media.

20 c. For purposes of the definition of "digital audio works," "ringtones" means  
21 digitized sound files that are downloaded onto a device and that may be used  
22 to alert the customer with respect to a communication.

1           d. "Specified digital products" shall not be construed to include prewritten  
2           computer software as that term is defined in subdivision (g) of subsection (1)  
3           of section 57-39.2-02.1.

4           **SECTION 2.** A new subsection to section 57-40.2-04 of the North Dakota Century Code  
5 is created and enacted as follows:

6           Gross receipts from the sale of items delivered electronically, including specified  
7           digital products. For purposes of this subsection:

8           a. "Specified digital products" means:

9           (1) "Digital Audio-Visual Works" which means a series of related images  
10           which, when shown in succession, impart an impression of motion,  
11           together with accompanying sounds, if any;

12           (2) "Digital Audio Works" which means works that result from the fixation of  
13           a series of musical, spoken, or other sounds, including ringtones, and

14           (3) "Digital Books" which means works that are generally recognized in the  
15           ordinary and usual sense as "books".

16           b. For purposes of the definition of "specified digital products," "transferred  
17           electronically" means obtained by the purchaser by means other than tangible  
18           storage media.

19           c. For purposes of the definition of "digital audio works," "ringtones" means  
20           digitized sound files that are downloaded onto a device and that may be used  
21           to alert the customer with respect to a communication.

22           d. "Specified digital products" shall not be construed to include prewritten  
23           computer software as that term is defined in as that term is defined in  
24           subdivision (g) of subsection (1) of section 57-39.2-02.1.