

Introduced by

Senators Sinner, Mathern

Representatives Haak, Hanson, Hogan, S. Kelsh

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota
2 Century Code, relating to a sales and use tax exemption for clothing; to provide ~~ana~~ continuing
3 appropriation; 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 **Sales tax exemption for clothing - Allocation of replacement revenue to cities and**
8 **counties - Continuing appropriation.**

9 Gross receipts from sales of clothing are exempt from taxes imposed under this chapter.

10 ~~The tax commissioner shall make annual allocations of funds provided by legislative~~
11 ~~appropriations among cities and counties imposing sales taxes to offset the lost city and county~~
12 ~~sales tax revenue from this exemption. The tax commissioner shall make an annual payment to~~
13 ~~cities and counties prorated in proportion to the respective shares of each city and county in~~
14 ~~respect to total annual statewide city and county home rule sales tax collections.~~

15 1. For purposes of this section, "clothing" means all human wearing apparel suitable for
16 general use.

17 2. For purposes of this section, "clothing" includes:

18 a. Aprons, household and shop;

19 b. Athletic supporters;

20 c. Baby receiving blankets;

21 d. Bathing suits and caps;

22 e. Beach capes and coats;

23 f. Belts and suspenders;

24 g. Boots;

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- 1 h. Coats and jackets;
- 2 i. Costumes;
- 3 j. Diapers, children and adult, including disposable diapers;
- 4 k. Ear muffs;
- 5 l. Footlets;
- 6 m. Formal wear;
- 7 n. Garters and garter belts;
- 8 o. Girdles;
- 9 p. Gloves and mittens for general use;
- 10 q. Hats and caps;
- 11 r. Hosiery;
- 12 s. Insoles for shoes;
- 13 t. Laboratory coats;
- 14 u. Neckties;
- 15 v. Overshoes;
- 16 w. Pantyhose;
- 17 x. Rainwear;
- 18 y. Rubber pants;
- 19 z. Sandals;
- 20 aa. Scarves;
- 21 bb. Shoes and shoelaces;
- 22 cc. Slippers;
- 23 dd. Sneakers;
- 24 ee. Socks and stockings;
- 25 ff. Steel-toed shoes;
- 26 gg. Underwear;
- 27 hh. Uniforms, athletic and nonathletic; and
- 28 ii. Wedding apparel.
- 29 3. For purposes of this section, "clothing" does not include:
- 30 a. Belt buckles sold separately;
- 31 b. Clothing accessories or equipment;

- 1 c. Costume masks sold separately;
- 2 d. Fur clothing;
- 3 e. Patches and emblems sold separately;
- 4 f. Protective equipment;
- 5 g. Sewing equipment and supplies, including knitting needles, patterns, pins,
- 6 scissors, sewing machines, sewing needles, tape measures, and thimbles;
- 7 h. Sewing materials that become part of clothing, including buttons, fabric, lace,
- 8 thread, yarn, and zippers; and
- 9 i. Sport or recreational equipment.
- 10 4. For purposes of this section, "clothing accessories or equipment" means incidental
- 11 items worn on the person or in conjunction with clothing. The term includes:
- 12 a. Briefcases;
- 13 b. Cosmetics;
- 14 c. Hair notions, including barrettes, hair bows, and hairnets;
- 15 d. Handbags;
- 16 e. Handkerchiefs;
- 17 f. Jewelry;
- 18 g. Sunglasses, nonprescription;
- 19 h. Umbrellas;
- 20 i. Wallets;
- 21 j. Watches; and
- 22 k. Wigs and hairpieces.
- 23 5. For purposes of this section, "fur clothing" means clothing that is required to be
- 24 labeled as a fur product under the federal Fur Products Labeling Act [15 U.S.C. 69],
- 25 and the value of the fur components in the product is more than three times the value
- 26 of the next most valuable tangible component. For purposes of this subsection, "fur"
- 27 means any full or partial animal skin with hair, fleece, or fur fibers attached, either in its
- 28 raw or processed state, but does not include skins that have been converted into
- 29 leather or suede or, which in processing, the hair, fleece, or fur fiber has been
- 30 completely removed.

1 6. For purposes of this section, "protective equipment" means items for human wear and
2 designed as protection of the wearer against injury or disease or as protection against
3 damage or injury of other persons or property which are not suitable for general use.

4 The term includes:

- 5 a. Breathing masks;
- 6 b. Clean room apparel and equipment;
- 7 c. Ear and hearing protectors;
- 8 d. Face shields;
- 9 e. Hardhats;
- 10 f. Helmets;
- 11 g. Paint or dust respirators;
- 12 h. Protective gloves;
- 13 i. Safety glasses and goggles;
- 14 j. Safety belts;
- 15 k. Tool belts; and
- 16 l. Welder's gloves and masks.

17 7. For purposes of this section, "sport or recreational equipment" means items designed
18 for human use and worn in conjunction with an athletic or recreational activity which
19 are not suitable for general use. "Sport or recreational equipment" includes:

- 20 a. Ballet and tap shoes;
- 21 b. Cleated or spiked athletic shoes;
- 22 c. Gloves, including baseball, bowling, boxing, hockey, and golf;
- 23 d. Goggles;
- 24 e. Hand and elbow guards;
- 25 f. Life preservers and lifevests;
- 26 g. Mouth guards;
- 27 h. Roller and ice skates;
- 28 i. Shinguards;
- 29 j. Shoulder pads;
- 30 k. Ski boots;
- 31 l. Waders; and

1 m. Wetsuits and fins.

2 8. Notwithstanding any other provision of law, the state treasurer shall deposit in the
3 home rule charter sales tax reimbursement fund, which is hereby created, a portion of
4 the sales and use taxes collected under this chapter and chapter 57-40.2, equal to
5 four million eight hundred fifty thousand dollars. The deposit to the fund must be made
6 no later than July thirty-first of each year for the purpose of offsetting the reduction in
7 city or county revenue lost from the exemption in this section. The revenues deposited
8 in the home rule charter sales tax reimbursement fund are provided as a continuing
9 appropriation for distribution by the state treasurer no later than August thirty-first of
10 each year, in the amounts as certified by the tax commissioner, to the home rule cities
11 and counties that impose a sales, use, or gross receipts tax. No later than June
12 thirtieth of each year, the tax commissioner shall certify to the state treasurer the
13 annual allocation of funds to the cities and counties prorated in proportion to the
14 respective share of each city and county with respect to total annual statewide city and
15 county home rule sales, use, or gross receipts tax collections in the previous calendar
16 year.

17 ~~— **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general~~
18 ~~fund in the state treasury, not otherwise appropriated, the sum of \$9,500,000, or so much of the~~
19 ~~sum as may be necessary, to the tax commissioner for the purpose of allocation in two equal~~
20 ~~annual installments to cities and counties under section 1 of this Act, for the biennium beginning~~
21 ~~July 1, 2013, and ending June 30, 2015.~~

22 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
23 June 30, 2013.