

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1410

Introduced by

Representatives Thoreson, Belter, Haak, Headland, Owens

Senators Cook, O'Connell, Oehlke

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subsection to  
2 section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for  
3 materials used to construct a processing facility to produce liquefied natural gas and for liquified  
4 natural gas used for railroad purposes; to amend and reenact subsection 4 of section  
5 57-40.2-03.3, subsection 5 of section 57-40.2-04, and section 57-43.2-02.3 of the North Dakota  
6 Century Code, relating to exemption from sales and use and special fuels taxes for liquified  
7 natural gas used for railroad purposes and materials used to liquify natural gas; and to provide  
8 an effective date.

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

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

12 Gross receipts from sales of liquified natural gas used for railroad purposes as defined  
13 in section 57-43.2-01.

14 **SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
15 and enacted as follows:

16 **Sales tax exemption for materials used to construct a processing facility to produce**  
17 **liquefied natural gas.**

18 1. Gross receipts from sales of tangible personal property used to construct or expand a  
19 processing facility in this state to produce liquefied natural gas are exempt from taxes  
20 under this chapter. To be exempt, the tangible personal property must be incorporated  
21 in the structure of the facility or used in the construction process to the point of having  
22 no residual economic value.

23 2. To receive the exemption at the time of purchase, the owner of the processing facility  
24 must receive from the commissioner a certificate that the tangible personal property

1           used to construct the processing facility which the owner intends to purchase qualifies  
2           for the exemption. If a certificate is not received prior to the purchase, the owner shall  
3           pay the applicable tax imposed by this chapter and apply to the commissioner for a  
4           refund.

5           3. If the tangible personal property is purchased or installed by a contractor subject to the  
6           tax imposed by this chapter, the owner may apply for a refund of the difference  
7           between the amount remitted by the contractor and the exemption imposed or allowed  
8           by this section.

9           **SECTION 3. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota  
10 Century Code is amended and reenacted as follows:

- 11           4. The tax imposed by this section does not apply to:
- 12           a. Production equipment or tangible personal property as authorized or approved
  - 13           for exemption by the tax commissioner under section 57-39.2-04.2;
  - 14           b. Machinery, equipment, or other tangible personal property used to construct an
  - 15           agricultural commodity processing facility as authorized or approved for
  - 16           exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
  - 17           c. Tangible personal property used to construct or expand a system used to
  - 18           compress, process, gather, or refine gas recovered from an oil or gas well in this
  - 19           state or used to expand or build a gas-processing facility in this state as
  - 20           authorized or approved for exemption by the tax commissioner under section
  - 21           57-39.2-04.5; ~~or~~
  - 22           d. Tangible personal property used to construct to expand a qualifying oil refinery as
  - 23           authorized or approved for exemption by the tax commissioner under section
  - 24           57-39.2-04.6; or
  - 25           e. Tangible personal property used to construct or expand a qualifying facility as
  - 26           authorized or approved for exemption by the tax commissioner under section 2 of
  - 27           this Act.

28           **SECTION 4. AMENDMENT.** Subsection 5 of section 57-40.2-04 of the North Dakota  
29 Century Code is amended and reenacted as follows:

- 1           5.   Railway cars and locomotives used in interstate commerce; and tangible personal  
2                   property which becomes a component part thereof and liquified natural gas used for a  
3                   railroad purpose as defined in section 57-43.2-01.

4           **SECTION 5. AMENDMENT.** Section 57-43.2-02.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **57-43.2-02.3. Exemptions.**

- 7           1.   Special fuel commonly known as diesel fuel which is dyed for federal fuel tax  
8                   exemption purposes and sold for an agricultural, industrial, or railroad purpose is  
9                   exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is  
10                  sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03.  
11                 Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes  
12                   and sold for use as heating fuel is exempt from the special fuel tax imposed by  
13                   sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor  
14                   vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 15           2.   Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad  
16                   purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time  
17                   the fuel is sold to the consumer and is subject instead to the tax imposed by section  
18                   57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax  
19                   imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the  
20                   consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel  
21                   is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at  
22                   the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor  
23                   vehicle is not exempt from the tax imposed by section 57-43.2-02.
- 24           3.   A consumer purchasing special fuel for a use in which it becomes an ingredient or a  
25                   component part of tangible personal property intended to be sold ultimately at retail is  
26                   exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax  
27                   imposed by section 57-43.2-03.
- 28           4.   Liquified natural gas sold or used for a railroad purpose is exempt from the special fuel  
29                   tax imposed by sections 57-43.2-02 and 57-43.2-03.

30           **SECTION 6. EFFECTIVE DATE.** Sections 2 and 3 of this Act are effective for taxable  
31 events occurring after June 30, 2013. Sections 1, 4, and 5 of this Act are effective upon receipt

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- 1 of certification by the tax commissioner from the plant owner that construction of the gas
- 2 liquefaction plant is complete.