

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2298
(Senators Cook, Bekkedahl, Laffen)
(Representatives Dockter, Hatlestad, Headland)

AN ACT to create and enact a new section to chapter 57-39.2 and a new section to chapter 57-40.2 of the North Dakota Century Code, relating to sales and use tax collection obligations of certain out-of-state sellers; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Certain sellers located outside this state required to collect and remit sales taxes - Criteria.

Notwithstanding any other provision of law, any seller of tangible personal property or other taxable product for delivery in this state, which does not have a physical presence in this state, is subject to this chapter and chapter 57-40.2 and shall remit sales or use tax. The seller shall follow all applicable procedures and requirements of law as if the seller has a physical presence in this state, if the seller meets either of the following criteria in the previous calendar year or the current calendar year:

1. The seller's gross sales from the sale of tangible personal property and other taxable items delivered in this state exceed one hundred thousand dollars; or
2. The seller sold tangible personal property and other taxable items for delivery in this state in two hundred or more separate transactions.

SECTION 2. A new section to chapter 57-40.2 of the North Dakota Century Code is created and enacted as follows:

Certain sellers located outside this state required to collect and remit sales taxes - Criteria.

Notwithstanding any other provision of law, any seller of tangible personal property or other taxable product for delivery in this state, which does not have a physical presence in this state, is subject to this chapter and chapter 57-39.2 and shall remit sales or use tax. The seller shall follow all applicable procedures and requirements of law as if the seller had a physical presence in this state, if the seller meets either of the following criteria in the previous calendar year or the current calendar year:

1. The seller's gross sales from the sale of tangible personal property and other taxable items delivered in this state exceed one hundred thousand dollars; or
2. The seller sold tangible personal property and other taxable items for delivery in this state in two hundred or more separate transactions.

SECTION 3. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the date the United States Supreme Court issues an opinion overturning Quill v. North Dakota, 504 U.S. 298 (1992), or otherwise confirming a state may constitutionally impose its sales or use tax upon an out-of-state seller in circumstances similar to those specified in section 1 of this Act.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2298.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 68 Nays 23 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State