

January 24, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2193

Page 1, line 1, after "40-57.3-02" insert ", subsections 21, 22, and 23 of section 57-39.2-01, subdivision e of subsection 1 of section 57-39.2-02.1, and subsection 22 of section 57-39.2-04"

Page 1, line 3, after "membership" insert "and references to tourist court accommodations"

Page 2, line 28, overstrike the first comma and insert immediately thereafter "and"

Page 2, line 28, overstrike ", and a visitors' committee. The visitors'"

Page 2, line 29, overstrike the first "committee" and insert immediately thereafter ". The local destination marketing organization or visitors' committee"

Page 3, line 4, after "The" insert "advisory"

Page 3, line 4, remove the overstrike over "~~committee~~"

Page 3, line 5, overstrike "governing body of the city"

Page 3, line 5, replace "shall appoint the committee members" with "consists of the local destination marketing organization or the visitors' committee"

Page 3, after line 10, insert:

**"SECTION 4. AMENDMENT.** Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or ~~tourist court~~other accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract

incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or ~~tourist court~~ other accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or communication, excluding internet access service, the furnishing of hotel, motel, or ~~tourist court~~ other accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

**SECTION 5. AMENDMENT.** Subdivision e of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- e. The leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations.

**SECTION 6. AMENDMENT.** Subsection 22 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- 22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or ~~tourist court~~other accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days."

Renumber accordingly