Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1099

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

A BILL for an Act to amend and reenact subsections 3 and 5 of section 57-36-14, subsection 7 of section 57-40.2-07, and sections 57-40.3-09 and 57-43.1-44 of the North Dakota Century Code, relating to procedures available to the tax commissioner in case of seizure of tobacco products, reporting and remittance of use tax collected during odd-numbered years, the definition of state for motor vehicle excise tax reciprocity purposes, and cooperative agreements for the exchange of motor fuels tax information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 5 of section 57-36-14 of the North Dakota Century Code are amended and reenacted as follows:

3. In case a judgment of forfeiture is entered, the tax commissioner, unless ~~such~~the judgment is stayed pending an appeal to the supreme court, as soon as convenient, shall ~~sell such~~destroy the forfeited property ~~and cover the proceeds, less court costs, into the common schools trust fund of the state~~.
5. In the event that no demand for judicial determination is made, ~~such~~the seized property must be deemed forfeited to the state by operation of law, and the tax commissioner ~~thereupon may sell~~shall destroy the same.

SECTION 2. AMENDMENT. Subsection 7 of section 57-40.2-07 of the North Dakota Century Code is amended and reenacted as follows:

7. If total sales and purchases subject to sales and use taxes for the preceding calendar year equal or exceed three hundred thirty-three thousand dollars, the tax levied by this chapter is payable monthly on or before the last day of the next succeeding month~~, except for taxes collected during May of each odd-numbered year, which are payable on or before the twenty-second day of June of that year~~. The amount of monthly tax payable, manner of payment, filing of the return, penalty, and waiver of penalty must

be that prescribed in subsection 1 of section 57-39.2-12. Penalty and interest for failure to file a return or corrected return or to pay the tax imposed must be that prescribed in section 57-40.2-15. If a person is required to file more than one return pursuant to this section, the monthly payment requirement applies separately to each return. If total sales and purchases subject to sales and use taxes for any succeeding calendar year decrease below three hundred thirty-three thousand dollars, a person may return to quarterly installments. In the event of a business reorganization in which the ownership of the business organization remains in the same person or persons as prior to the reorganization, the total sales subject to sales and use taxes for the preceding calendar year for the business that was reorganized must be used to determine whether the tax is payable monthly under this section.

SECTION 3. AMENDMENT. Section 57-40.3-09 of the North Dakota Century Code is amended and reenacted as follows:

57-40.3-09. Credit for excise tax paid in other states - Reciprocity.

If any motor vehicle has been subjected already to a sales tax, use tax, or motor vehicle excise tax by any other state, or political subdivision thereof, in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax paid in the other state, or political subdivision thereof, upon the sale or use was computed. If the rate of tax imposed in such other state, or political subdivision thereof, is the same or more than the rate of tax imposed by this chapter, then no tax is due on such motor vehicle. The provisions of this section apply only if such other state, or political subdivision thereof, allows a credit with respect to the excise tax imposed by this chapter which is substantially similar in effect to the credit allowed by this section. <u>For purposes of this section, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.</u>

SECTION 4. AMENDMENT. Section 57-43.1-44 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-44. Cooperative agreements between states.

1. The director may enter into cooperative agreements ~~with other states~~ for exchange of information and auditing of users of motor fuels used in fleets of motor vehicles

operated or intended to operate interstate or internationally. An agreement or amendment to an agreement is not effective until filed in writing with the director.

2. An agreement under this section may provide for determining the base ~~state~~ for users, users' records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods including defining the uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of motor fuel taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

3. The director may, as required by the terms of the agreement, forward ~~to officers of another state any~~ information in the director's or commissioner's possession relative to the manufacture, receipt, sale, use, transportation, or shipment of motor fuels by any person. The director may disclose ~~to officers of another state~~ the location of officers, motor vehicles, and other real and personal property of users of motor fuels.

4. An agreement may provide for ~~each state to audit the records of persons based in the state~~audits of users of motor fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally, to determine if the motor fuel taxes due ~~each state~~ are properly reported and paid. ~~Each state shall forward the~~The findings of ~~the~~ audits performed on persons ~~based in the state, to each state in~~ which ~~the person has~~have a taxable use of motor fuels may be shared among parties to a cooperative agreement. For persons not based in this state and who have taxable use of motor fuel in this state, the director or the tax commissioner may serve the audit findings ~~received from another state~~, in the form of an assessment, on the person as though an audit was conducted by the director or the tax commissioner.

5. Any agreement entered under this section does not preclude the director or the commissioner from auditing the records of any person covered by the provisions of this chapter.

6. The provisions of any agreement entered into under this section prevail over any conflicting rules adopted by the director or the commissioner.