

HOUSE BILL NO. 1422

Introduced by

Representative J. Nelson

1 A BILL for an Act to amend and reenact sections 57-36-25, 57-36-26, 57-36-31, and 57-36-32 of
2 the North Dakota Century Code, relating to the tax imposed on cigarettes and tobacco products;
3 and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-36-25 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-36-25. Cigars and pipe tobacco - Excise tax on wholesale purchase price - Other**
8 **tobacco products - Excise tax on weight - Penalty - Reports - Collection -~~Allocation of~~**
9 **revenue.**

- 10 1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this
11 state an excise tax at the rate of ~~twenty-eight~~ninety-two percent of the wholesale
12 purchase price at which such cigars and pipe tobacco are purchased by distributors.
13 For the purposes of this section, the term "wholesale purchase price" shall mean the
14 established price for which a manufacturer sells cigars or pipe tobacco to a distributor
15 exclusive of any discount or other reduction.
- 16 2. There is levied and assessed upon all other tobacco products sold in this state an
17 excise tax at the following rates:
- 18 a. Upon each can or package of snuff, ~~sixty~~one dollar and ninety-six cents per
19 ounce and a proportionate tax at the like rate on all fractional parts of an ounce.
- 20 b. On chewing tobacco, ~~sixteen~~fifty-two cents per ounce and a proportionate tax at
21 the like rate on all fractional parts of an ounce.

22 For purposes of this subsection, the tax on other tobacco products is computed based
23 on the net weight as listed by the manufacturer.

- 1 3. The proceeds of the taxes imposed under this section, together with such forms of
2 return and in accordance with such rules and regulations as the tax commissioner may
3 prescribe, shall be remitted to the tax commissioner by the distributor on a calendar
4 quarterly basis on or before the fifteenth day of the month following the quarterly
5 period for which paid. The tax commissioner shall, however, have authority to
6 prescribe monthly returns upon the request of the licensee distributor and such returns
7 accompanied with remittance shall be filed before the fifteenth day of the month
8 following the month for which the returns are filed.
- 9 4. Any person failing to file any prescribed form or return or to pay any tax within the time
10 required or permitted by this section is subject to a penalty of five percent of the
11 amount of tax due or five dollars, whichever is greater, plus interest of one percent of
12 the tax per month or fraction of a month of delay except the first month after the return
13 or the tax became due. The tax commissioner, if satisfied that the delay was
14 excusable, may waive all or any part of the penalty. The penalty must be paid to the
15 tax commissioner and disposed of in the same manner as are other receipts under this
16 chapter.
- 17 5. ~~All moneys received by the tax commissioner under the provisions of this section shall~~
18 ~~be transmitted to the state treasurer at the end of each month and deposited in the~~
19 ~~state treasury to the credit of the general fund.~~

20 **SECTION 2. AMENDMENT.** Section 57-36-26 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-36-26. Cigars, pipe tobacco, and other tobacco products - Excise tax payable by**
23 **dealers - Reports - Penalties - Collection -~~Allocation of revenue.~~**

- 24 1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another
25 state and brought into this state by a dealer for the purpose of sale at retail, an excise
26 tax at the rate of ~~twenty-eight~~ninety-two percent of the wholesale purchase price and,
27 upon all other tobacco products purchased in another state and brought into this state
28 by a dealer for the purpose of sale at retail, an excise tax at the rates indicated in
29 section 57-36-25, at the time the products were brought into this state. For the
30 purposes of this section, the term "wholesale purchase price" means the established
31 price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of

1 any discount or other reduction. However, the dealer may elect to report and remit the
2 tax on the cost price of the products to the dealer rather than on the wholesale
3 purchase price. The proceeds of the tax, together with the forms of return and in
4 accordance with any rules and regulations the tax commissioner may prescribe, must
5 be remitted to the tax commissioner by the dealer on a monthly basis on or before the
6 fifteenth day of the month following the monthly period for which it is paid. The tax
7 commissioner shall have the authority to place any dealer on an annual remittance
8 basis when in the judgment of the tax commissioner the operations of the dealer merit
9 that remittance period. In addition, the tax commissioner shall have the authority to
10 permit the consolidation of the filing of a dealer's return when the dealer has more
11 than one location and thereby would be required to file more than one return.

12 2. If cigars, pipe tobacco, or other tobacco products have been subjected already to a tax
13 by any other state in respect to their sale in an amount less than the tax imposed by
14 this section, the provisions of this section apply, but at a rate measured by the
15 difference only between the rate fixed in this section and the rate by which the
16 previous tax upon the sale was computed. If the tax imposed in the other state is
17 twenty percent of the wholesale purchase price or more, then no tax is due on the
18 article. The provisions of this subsection apply only if the other state allows a tax credit
19 with respect to the excise tax on cigars, pipe tobacco, or other tobacco products
20 imposed by this state which is substantially similar in effect to the credit allowed by this
21 subsection.

22 3. Any person failing to file any prescribed forms of return or to pay any tax within the
23 time required by this section is subject to a penalty of five dollars or a sum equal to
24 five percent of the tax due, whichever is greater, plus one percent of the tax for each
25 month of delay or fraction thereof excepting the month within which the return was
26 required to be filed or the tax became due. The tax commissioner, if satisfied that the
27 delay was excusable, may waive all or any part of the penalty. The penalty must be
28 paid to the tax commissioner and disposed of in the same manner as are other
29 receipts under this chapter.

- 1 4. All moneys received by the tax commissioner under the provisions of this section must
2 be transmitted to the state treasurer at the end of each month and deposited in the
3 state treasury to the credit of the general fund.

4 **SECTION 3. AMENDMENT.** Section 57-36-31 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-36-31. Transfer and allocation of revenues - Appropriation.**

- 7 1. All moneys received by the tax commissioner under the provisions of this chapter must
8 be transmitted to the state treasurer at the end of each month and deposited in the
9 state treasury to the credit of the general fund, except as hereinafter provided.
- 10 2. All moneys received from the levy and assessment of one and one-half mills on each
11 of the classes of cigarettes provided in this chapter are appropriated and must be
12 distributed on or before the thirtieth day of June and the thirty-first day of December of
13 each year on a per capita basis to the incorporated cities for such purposes as are
14 now or may be hereafter authorized by law, the allocation to be based upon the
15 population of each incorporated city according to the last official federal census, or the
16 census taken in accordance with the provisions of chapter 40-02 in the case of a city
17 incorporated subsequent to the last federal census, and warrants must be drawn
18 payable to the treasurers of such cities.
- 19 3. All moneys received from fifty of the sixty-seven mills levied and assessed on each
20 cigarette under section 57-36-32 and an amount equal to a one dollar and thirty-six
21 cents tax levied and assessed per ounce of snuff under section 57-36-25, a thirty-six
22 cent tax levied and assessed per ounce of chewing tobacco under section 57-36-25,
23 and a sixty-four percent tax levied and assessed on the wholesale purchase price of
24 cigars, pipe tobacco, and other tobacco products under sections 57-36-25 and
25 57-36-26 must be transferred to a community health trust fund.

26 **SECTION 4. AMENDMENT.** Section 57-36-32 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-36-32. Separate and additional tax on the sale of cigarettes - Collection -**
29 **Allocation of revenue - Tax avoidance prohibited.**

30 There is hereby levied and assessed and there shall be collected by the state tax
31 commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional

1 tax, separate and apart from all other taxes, of ~~seventeen~~sixty-seven mills on each cigarette, to
2 be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of
3 appropriate stamps and under similar accounting procedures. No person, firm, corporation, or
4 limited liability company shall transport or bring or cause to be shipped into the state of North
5 Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state,
6 without first paying the tax thereon to the state tax commissioner. All of the moneys collected by
7 the state treasurer under this section shall be credited to the state general fund.

8 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
9 June 30, 2021.