

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1205
(Representatives Dockter, Headland, Howe, Porter)
(Senator Cook)

AN ACT to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct a straddle plant, a fractionator, or qualified associated infrastructure; to amend and reenact subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

2. On or before June 30, ~~2019~~2023, the owner of the fertilizer or chemical processing plant must receive from the state department of health environmental quality an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section.

SECTION 2. AMENDMENT. Subsection 2 of section 57-39.2-04.15 of the North Dakota Century Code is amended and reenacted as follows:

2. On or before June 30, ~~2019~~2023, the owner of the fertilizer or chemical processing plant must receive from the state department of health an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section.

SECTION 3. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales tax exemption for materials used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure.

1. Gross receipts from sales of tangible personal property used to construct or expand a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure in this state are exempt from the tax imposed under this chapter. To qualify for the exemption, the tangible personal property must be incorporated into a qualifying straddle plant or a qualifying fractionator plant, or used in the construction process to the point of having no residual economic value. Replacement of tangible personal property does not qualify for the exemption under this section unless the replacement creates an expansion of the plant or qualified associated infrastructure.
2. To receive the exemption at the time of purchase, the owner of the plant or qualified associated infrastructure must receive from the tax commissioner a certificate that the tangible personal property used to construct the plant qualifies for the exemption. If a certificate is not received prior to the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the

amount remitted by the contractor and the exemption allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner, and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

4. For purposes of this section:

- a. "Deep cut fractionator" means a plant that processes a mixed natural gas liquids stream into purity natural gas liquids, including ethane, propane, butane, and C-five plus.
- b. "Expansion" means an increase in production volume, employment, or the type of products produced.
- c. "Qualified associated infrastructure" means:
 - (1) Natural gas liquid pipelines built to supply mixed natural gas liquids to the qualified fractionator;
 - (2) Storage facilities for mixed natural gas liquids that will be processed by the qualified fractionator;
 - (3) Storage facilities for purity natural gas liquids, including ethane, propane, butane, and C-five plus, that are produced by the qualified fractionator;
 - (4) Disposal facilities built for the qualified fractionator and for onsite purchasers of the fractionator's processed end-product;
 - (5) Rail upgrades required for the qualified fractionator and onsite purchasers to access rail transportation; and
 - (6) Roads developed for the qualified fractionator, storage facilities, and onsite customers.
- d. "Qualified fractionator" means a deep cut fractionator located in this state with a daily design capacity of at least forty-five thousand barrels of ethane, fifteen thousand barrels of propane, thirteen thousand barrels of butane, and three thousand barrels of C-five plus.
- e. "Qualified straddle plant" means a straddle plant located in this state that is either connected to a qualified fractionator or produces Y-grade liquids that are dedicated for use by a qualified fractionator.
- f. "Straddle plant" means a gas processing plant located on or near a gas transmission line, which removes residual natural gas liquids from the gas stream and returns the residue gas to the transmission line.

SECTION 4. A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Tangible personal property used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure as authorized or approved for exemption by the tax commissioner under section 2 of this Act.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable periods beginning after June 30, 2019.

SECTION 6. EFFECTIVE DATE - EXPIRATION DATE. If, by July 1, 2019, the legislative council has not received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state

department of health have been transferred to the department of environmental quality, section 2 of this Act becomes effective on July 1, 2019, and remains in effect until the date certification is received, after which section 2 of this Act is ineffective. If the certification is received before July 1, 2019, section 2 of this Act does not become effective.

Section 1 of this Act become effective on July 1, 2019, if the legislative council has received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality. If the certification is not received by July 1, 2019, section 1 of this Act becomes effective on the date certification is received.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1205.

House Vote: Yeas 62 Nays 29 Absent 3

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State