

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

760U0339

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **SB 114** - 03/04/2013

Introduced by: Senators Tieszen, Adelstein, Ewing, Jensen, Kirkeby, and Rampelberg and
Representatives Craig, Campbell, Dryden, Kopp, Sly, and Verchio

1 FOR AN ACT ENTITLED, An Act to provide a definition of smoking and to permit smoking
2 of hookah or shisha tobacco in certain licensed establishments.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-46-13 be amended to read as follows:

5 34-46-13. Terms used in this section and §§ 34-46-14 to 34-46-19, inclusive, mean:

6 (1) "Enclosed area," any space between a floor and a ceiling that is enclosed, exclusive
7 of doorways, on all sides by permanent or temporary walls or windows;

8 (2) "Place of employment," any enclosed area under the control of a public or private
9 employer;

10 (3) "Public place," any enclosed area to which the public is invited or in which the public
11 is permitted;

12 (4) "Smoking" or "smoke," inhaling, exhaling, or tasting the fumes released through
13 burning or heating tobacco.

14 Section 2. That chapter 34-36 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The provisions of §§ 34-46-13 to 34-46-15, inclusive, do not apply to any establishment in
3 actual operation prior to January 1, 2013, and where a license is issued pursuant to subdivision
4 35-4-2(4), (6), (12), or (16) at any time, and maintains compliance with the following
5 requirements:

- 6 (1) Generates ten percent or more of its annual gross income from the sale of hookah or
7 shisha tobacco; and
- 8 (2) Is enclosed by solid walls or windows, a ceiling, and a solid door and is equipped
9 with a ventilation system by which exhausted air is not recirculated to nonsmoking
10 areas and smoke is not backstreamed into nonsmoking areas.

11 Any establishment meeting the requirements of this section may permit the smoking of
12 hookah, shisha tobacco, and any premium tobacco product purchased on the premises. However,
13 no establishment may permit the smoking of any other tobacco product on the premises. The
14 establishment shall post a notice of the prohibition.

15 Any establishment meeting the requirements of this section shall annually report to the
16 Department of Revenue, on a form prescribed by the department, the revenue generated from
17 the sale of hookah and shisha tobacco as a percentage of annual gross income.