

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

716H0414

SENATE BILL NO. 75

Introduced by: Senators Brosz, Brown (Arnold), Ham, McIntyre, Olson (Ed), and Whiting
and Representatives Konold, Duniphan, Garnos, Smidt, and Solum

1 FOR AN ACT ENTITLED, An Act to designate certain areas as drug-free zones.

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

3 Section 1. That § 22-42-19 be amended to read as follows:

4 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, or 22-42-4, or a
5 felony violation of § 22-42-7, if such activity has taken place:

6 (1) In, on, or within one thousand feet of real property comprising a public or private
7 elementary or secondary school or a playground; or

8 (2) In, on, or within five hundred feet of real property comprising a public or private
9 youth center, public swimming pool, baseball field, football field, soccer field, softball
10 field, basketball court, tennis court, or video arcade facility;

11 is guilty of a Class 4 felony. The sentence imposed for a conviction under this section carries a
12 minimum sentence of imprisonment in the state penitentiary of five years. Any sentence imposed
13 under this section shall be consecutive to any other sentence imposed for the principal felony.

14 The court may not place on probation, suspend the execution of the sentence, or suspend the
15 imposition of the sentence of any person convicted of a violation of this section. However, the



1 sentencing court may impose a sentence other than that specified in this section if the court finds
2 that mitigating circumstances exist which require a departure from the mandatory sentence
3 provided for in this section. The court's finding of mitigating circumstances allowed by this
4 section and the factual basis relied upon by the court shall be in writing.

5 It is not a defense to the provisions of this section that the defendant did not know the
6 distance involved. It is not a defense to the provisions of this section that school was not in
7 session.