



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

445I0358

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1056** - 02/04/2003

Introduced by: Representatives Teupel and Madsen and Senator Apa

1 FOR AN ACT ENTITLED, An Act to define the premises of a licensee that may be issued an  
2 on-sale license outside a municipality.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The premises of a retailer licensed pursuant to subdivision 35-4-2(6) shall be described on  
7 the application for the license and may include any hotel with at least fifty rooms that are suitable  
8 lodging accommodations, any convention center and related facility, and any full-service  
9 restaurant under common ownership and management before January 1, 2003, separated only  
10 by a scenic public right of way and a linear distance of no more than five hundred feet. For  
11 purposes of this section, a full-service restaurant has facilities for the serving of prepared meals  
12 from a fixed restaurant area with a separate kitchen and a simultaneous seating capacity of at  
13 least sixty patrons.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

372I0444

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1076** - 02/04/2003

Introduced by: Representatives Madsen, Burg, Craddock, Elliott, Haverly, Hunhoff, Kroger, Murschel, O'Brien, Olson (Mel), Peterson (Jim), Rhoden, and Teupel and Senators Ham, Dempster, Earley, Knudson, Koetzle, Kooistra, McCracken, Moore, Olson (Ed), Reedy, Sutton (Dan), and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to energy savings  
2 contracts.

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

4 Section 1. That § 1-33B-7 be amended to read as follows:

5 1-33B-7. The governmental unit shall provide public notice of the meeting at which it  
6 proposes to award a guaranteed energy savings contract, of the names of the parties to the  
7 proposed contract, and of the purpose of the contract. The public notice shall be by legal  
8 newspaper as provided by chapter 17-2 and be made at least ten days prior to the meeting. After  
9 reviewing the report under § 1-33B-4, a governmental unit may enter into a guaranteed energy  
10 savings contract with a qualified provider if it finds that the amount it would spend on the energy  
11 conservation measures recommended in the proposal would not exceed the amount to be saved  
12 in either energy or operation costs, or both, within a ~~ten-year~~ fifteen-year period from the date  
13 of installation, if the recommendations in the proposal are followed.

14 Section 2. That § 1-33B-8 be amended to read as follows:



1        1-33B-8. The contract shall include a written guarantee of the qualified provider that either  
2 the energy or operating cost savings, or both, will meet or exceed the costs of the energy  
3 efficiency measure within ~~ten~~ fifteen years. A qualified provider shall provide a sufficient bond  
4 to the governmental unit for the installation and the faithful performance of all the measures  
5 included in the contract covering the first two years of the contract. The guaranteed energy  
6 savings, projected for any additional year of the contract, shall be guaranteed by the qualified  
7 provider. The qualified provider shall reimburse the governmental entity for any shortfall of  
8 guaranteed energy savings projected in the contract. The guaranteed energy savings contract may  
9 provide for payments over a period not exceeding ~~ten~~ fifteen years.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

769I0268

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1080** - 02/04/2003

Introduced by: Representatives Klaudt, Lintz, McCaulley, and Rhoden and Senators de Hueck, Duniphan, and Jaspers

1 FOR AN ACT ENTITLED, An Act to revise the publication of advertisements for bids.

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

3 Section 1. That § 5-18-3 be amended to read as follows:

4 5-18-3. If the governing body of any public corporation intends to enter into a contract for  
5 the construction of a new building or the remodeling or addition to an existing building which  
6 involves the expenditure of fifty thousand dollars or more, a contract for any other public  
7 improvement which involves the expenditure of twenty-five thousand dollars or more, or a  
8 contract for the purchase of materials, supplies, or equipment which involves the expenditure of  
9 fifteen thousand dollars or more, the governing body of the public corporation shall advertise for  
10 bids for the project. The advertisement shall appear as a legal notice in the appointed legal  
11 newspaper. The advertisement shall be printed at least twice, with the first publication at least  
12 ten days before opening of bids. The first publication shall be in the official newspaper or  
13 newspapers of the contracting corporation, and the second publication may be in any legal  
14 newspaper of the state chosen by the contracting corporation. If the contracting corporation has  
15 no official newspaper, the first publication shall be made in a legal newspaper with general



1 circulation in the district, to be selected by the contracting corporation. The advertisement shall  
2 state the time and place where the bids will be opened and passed upon by the board. In all  
3 notices, the board shall reserve the right to reject any or all bids. If a public corporation lists a  
4 bid on the centralized bid exchange pursuant to § 5-18-1.1, the public corporation need not make  
5 the second publication required by this section.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

915I0243

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1090** - 02/04/2003

Introduced by: Representatives Pederson (Gordon), Fryslie, and Lintz and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to provide that certain vehicle leases are not sales or  
2 security interests.

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

4 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No transaction regarding any motor vehicle or trailer creates a sale or security interest if the  
7 agreement provides that the rental price may be adjusted by the amount realized upon sale or  
8 other disposition of the motor vehicle or trailer. If the vehicle or trailer is leased or used primarily  
9 for personal, family, or household purposes, this section does not apply. This section does apply  
10 to any motor vehicle fleet leasing contract that contains a terminal rental adjustment clause  
11 provision. Any contract containing this provision shall be accorded the same treatment in the area  
12 of bankruptcy that currently exists in the area of taxation.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

345I0417

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1105** - 02/04/2003

Introduced by: Representatives Garnos, Gillespie, and Juhnke and Senators Schoenbeck,  
Duniphan, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify which establishments may provide or allow the  
2 consumption of alcoholic beverages on Sundays.

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

4 Section 1. That § 35-4-2.1 be amended to read as follows:

5 35-4-2.1. Notwithstanding § 35-4-81, the governing body of any municipality or county may,  
6 in its discretion, provide in any on-sale license the right to sell, serve, or allow to be consumed  
7 alcoholic beverages between the hours of eleven a.m. and twelve midnight on Sunday with the  
8 serving of food ~~where~~ if the licensee has facilities for the serving of prepared meals from a fixed  
9 restaurant with the simultaneous seating capacity of at least:

- 10 (1) Fifty patrons in municipalities of the first class;  
11 (2) Thirty-five patrons in municipalities of the second class; and  
12 (3) Twenty-five patrons in municipalities of the third class.

13 If such establishments are outside the corporate boundaries of a municipality, the population  
14 of the nearest municipality shall govern the minimum seating capacity of an establishment so  
15 located. The governing body may require such licensee to pay an additional fee of not more than



1 two hundred dollars. The provisions of this section ~~shall~~ apply only to facilities upon which  
2 ~~property taxes are assessed and~~ if assessed, are currently paid.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

583I0061

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 1** - 01/22/2003

Introduced by: Senators Brown, Albers, Dennert, Duxbury, and McCracken and  
Representatives Burg, Heineman, Konold, Lange, Pederson (Gordon), and  
Smidt at the request of the Department of Legislative Audit

1 FOR AN ACT ENTITLED, An Act to eliminate the requirement that certain nonprofit  
2 corporations file an annual report with the Department of Legislative Audit and to provide  
3 for Department of Legislative Audit approval of single audits of certain nonprofit  
4 corporations.

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

6 Section 1. That § 4-11-2.1 be amended to read as follows:

7 4-11-2.1. ~~All~~ Any charitable or nonprofit corporation receiving federal funds through the  
8 state or its political subdivisions, that is required to be audited in accordance with the Federal  
9 Single Audit Act Amendments of 1996 Public Law 104-156 (31 U.S.C. sections 7501 to 7507)  
10 as amended to January 1, 2003, shall comply with the provisions of § 4-11-7, except for the  
11 restrictions on payment for the audit, when hiring a public accountant to perform the audit. The  
12 auditor-general may examine all financial records, related to funds provided by the state or its  
13 political subdivisions, of any charitable or nonprofit corporations receiving appropriated funds  
14 ~~from the state or its political subdivisions either directly or through a state agency shall be~~



1 ~~required to file an annual financial report disclosing the receipt and disbursement of all~~  
2 ~~appropriated funds with the Department of Legislative Audit in form and contents as prescribed~~  
3 ~~by the auditor-general. The auditor-general shall be authorized to examine all books, accounts,~~  
4 ~~and reports of such corporations relating to the receipt and disbursement of appropriated funds,~~  
5 ~~if he deems it corporation if deemed necessary and in the public interest that they be examined~~  
6 ~~by the auditor-general.~~

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0219

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 21** - 01/22/2003

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise the requirements for service of a notice of entry  
2 in an action involving abuse or neglect.

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

4 Section 1. That § 26-8A-28 be amended to read as follows:

5 26-8A-28. Notice of entry of order of adjudication or final decree of disposition issued by  
6 the court in any action involving an abused or neglected child shall be served on the child's  
7 attorney and the child's guardian ad litem or special advocate, if any, and on all respondent  
8 parents and other respondent parties ~~in the same manner as service of the summons in the action~~  
9 ~~as provided in § 26-7A-47~~ in any manner authorized by the rules of civil procedure. The notice  
10 of entry may be served by publication in the same manner as service of the summons in the action  
11 as provided in § 26-7A-48. If the notice of entry is served by publication, the service is  
12 completed five days after the date of publication. The time for appeal commences on the day  
13 following the date of completed service of the notice of entry regardless of the manner in which  
14 the notice of entry is served.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0274

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 22** - 01/29/2003

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the appearance by  
2 a parent in person, by counsel, or by telephone for a hearing to voluntarily terminate parental  
3 rights.

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

5 Section 1. That § 25-5A-14 be amended to read as follows:

6 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional  
7 purposes. However, any for good cause shown, the court may permit the parent to appear  
8 telephonically. Any other person whose consent is necessary, may appear by filing with the court  
9 a power of attorney. If the Department of Social Services or a licensed child placement agency  
10 has custody of a child by written agreement of a parent with power of attorney to consent, the  
11 secretary or an authorized agent may appear and consent. Notwithstanding the foregoing  
12 provisions of this section, due regard shall be given to the Indian Child Welfare Act (25 U.S.C.  
13 Secs. 1901-1963) as in effect on January 1, 2003, if applicable.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0271

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 24** - 01/21/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to authorize the secretary of agriculture to suspend or  
2 revoke an egg dealer's or processor's license for certain violations and to provide the licensee  
3 an opportunity for a hearing.

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

5 Section 1. That § 39-11-17 be amended to read as follows:

6 39-11-17. ~~It shall be the duty of the~~ The secretary of agriculture ~~at any time to shall~~ revoke  
7 ~~or suspend~~ any license issued pursuant to this chapter on evidence that the licensee has violated  
8 any ~~or all~~ of the provisions of this chapter or ~~has refused to comply with any and all lawful~~  
9 ~~regulations promulgated as herein provided~~ regulations promulgated thereunder or has refused  
10 to permit inspection or interfered with inspection. No license ~~shall~~ may be revoked ~~except on~~  
11 ~~twenty days' notice to the licensee or his agent to be served by registered mail, specifying the~~  
12 ~~substance of the complaint and the time and place in which evidence will be heard in support of~~  
13 ~~the complaint. Opportunity shall be afforded such licensee to submit evidence and proof in denial~~  
14 ~~of such charges~~ or suspended unless the license holder has been given notice and an opportunity  
15 for hearing pursuant to chapter 1-26.

