

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0315

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1024** - 01/22/2003

Introduced by: The Committee on Retirement Laws at the request of the Department of
Military and Veterans Affairs

1 FOR AN ACT ENTITLED, An Act to revise the definition of the periods of service which
2 qualify for veterans benefits.

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

4 Section 1. That § 33-17-2 be amended to read as follows:

5 33-17-2. As used in § 33-17-1, the term, "qualifying military service", means:

- 6 (1) Active duty in the armed forces of the United States for one day or more during the
7 period from April 6, 1917, to November 11, 1918, inclusive;
- 8 (2) Active duty for one day or more during the period from July 28, 1914, to
9 November 11, 1918, inclusive, performed by a citizen of the United States in the
10 armed forces of any nation that was allied with the United States during any part of
11 the period from April 6, 1917, to November 11, 1918, inclusive;
- 12 (3) Active duty in the armed forces of the United States for one day or more during the
13 period from December 7, 1941, to December 31, 1946, inclusive;
- 14 (4) Active duty for one day or more during the period from September 1, 1939, to
15 December 31, 1946, inclusive, performed by a citizen of the United States in the



1 armed forces of any nation that was allied with the United States during any part of
2 the period from December 7, 1941, to December 31, 1946, inclusive;

3 (5) Active duty in the armed forces of the United States for one day or more during the
4 period from June 25, 1950, to May 7, 1975, inclusive;

5 (6) Active duty in the armed forces of the United States for one day or more during the
6 period from August 2, 1990, to ~~March 3, 1991~~ June 30, 2004, inclusive;

7 (7) Active duty in the armed forces of the United States for one day or more in a military
8 action for which the veteran earned an armed forces expeditionary medal, southwest
9 Asia service medal or other United States campaign or service medal awarded for
10 participation outside the boundaries of the United States in combat operations against
11 hostile forces; or

12 (8) Active duty in the armed forces of the United States for one day or more if the
13 veteran has established the existence of a service-connected disability.

14 ~~Any reserve or national guard personnel who have served~~ Service on active duty by any
15 reserve or national guard personnel for training ~~shall~~ may not be construed ~~thereby to have~~
16 ~~served~~ as service on active duty, unless the veterans' commission determines, by rules
17 promulgated pursuant to chapter 1-26, that such training involved the person in direct
18 participation in or direct support of combat operations against a hostile force.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

367I0643

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1180 - 02/11/2003

Introduced by: Representatives Peterson (Bill) and Bartling and Senators Dempster, Knudson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal the effective date for the sunseting of certain
2 provisions related to insurance taxes and to revise certain provisions related to policies
3 having cash surrender values exceeding one million dollars.

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

5 Section 1. That section 8 of chapter 54 of the 2001 Session Laws be repealed.

6 ~~Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

7 Section 2. That chapter 60 of the 2002 Session Laws be repealed.

8 ~~Section 1. That section 8 of chapter 54 of the 2001 Session Laws be amended to read as~~
9 follows:

10 ~~Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

11 Section 3. That § 58-15-17 be amended to read as follows:

12 58-15-17. In the case of policies issued on or after the operative date specified in § 58-15-42,
13 the loan value referred to in § 58-15-15 shall be the cash surrender value at the end of the current
14 policy year as required by § 58-15-33. The policy shall reserve to the insurer the right to defer
15 the granting of a loan, other than for the payment of any premium to the insurer, for six months



1 after application therefor. For policies where the cash surrender value pursuant to § 58-15-33
2 is in excess of one million dollars, the loan value shall be equal to the portion of the cash
3 surrender value that can immediately be converted to cash, pursuant to the policyholder's
4 consent. ~~The consent of the policyholder shall be on a form prescribed by the director in rules
5 promulgated pursuant to chapter 1-26.~~

6 Section 4. That § 58-15-26 be amended to read as follows:

7 58-15-26. There shall be a provision that when a policy becomes a claim by the death of the
8 insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option,
9 surrender of the policy or proof of the interest of the claimant, or both. If an insurer shall specify
10 a particular period prior to the expiration of which settlement shall be made, such period may not
11 exceed two months from the receipt of such proof. For policies where the cash surrender value
12 pursuant to § 58-15-33 is in excess of one million dollars at the date of death, settlement may
13 be made in cash or, if allowed under the policy, by distributing assets of the separate account to
14 the claimant with the consent of the policyholder. ~~The consent of the policyholder shall be on a
15 form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

16 Section 5. That § 58-15-26.2 be amended to read as follows:

17 58-15-26.2. Interest payable pursuant to § 58-15-26.1 shall be computed from the date of
18 death of the insured until the date of payment and shall be at the rate of four percent per annum
19 or not less than the current rate of interest on death proceeds left on deposit with the insurer
20 under an interest settlement option, whichever rate is greater. For policies where the cash
21 surrender value pursuant to § 58-15-33 is in excess of one million dollars at the date of death,
22 and with the consent of the policyholder, the interest shall be computed commencing the latter
23 of sixty days succeeding the date of death of the insured or the date proof of death has been
24 received by the insurer in good order until the date of payment. ~~The consent of the policyholder~~

1 ~~shall be on a form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

2 Section 6. That § 58-15-33 be amended to read as follows:

3 58-15-33. Any cash surrender value available under the policy in the event of default in a
4 premium payment due on any policy anniversary, whether or not required by § 58-15-31 shall
5 be an amount not less than the excess, if any, of the present value on such anniversary, of the
6 future guaranteed benefits which would have been provided for by the policy, including any
7 existing paid-up additions, if there had been no default, over the sum of the then present value
8 of the adjusted premiums as defined in §§ 58-15-35 to 58-15-38, inclusive, and §§ 58-15-43.1
9 to 58-15-43.11, inclusive, corresponding to premiums which would have fallen due on and after
10 such anniversary, and the amount of any indebtedness to the insurer on the policy. Any cash
11 surrender value available within thirty days after any policy anniversary under any policy paid up
12 by completion of all premium payments or any policy continued under any paid-up nonforfeiture
13 benefit, whether or not required by § 58-15-31, shall be an amount not less than the present
14 value, on such anniversary, of the future guaranteed benefits provided for by the policy, including
15 any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

16 However, for any policy issued on or after the operative date of §§ 58-15-43.1 to
17 58-15-43.11, inclusive, which provides supplemental life insurance or annuity benefits at the
18 option of the insured and for an identifiable additional premium by rider or supplemental policy
19 provision, the cash surrender value referred to in the first paragraph of this section shall be an
20 amount not less than the sum of the cash surrender value as defined in that paragraph for an
21 otherwise similar policy issued at the same age without a rider or supplemental policy provision
22 and the cash surrender value as defined in that paragraph for a policy which provides only the
23 benefits otherwise provided by a rider or supplemental policy provision.

24 Further, for any family policy issued on or after the operative date of §§ 58-15-43.1 to

1 58-15-43.11, inclusive, which defines a primary insured and provides term insurance on the life
2 of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash
3 surrender value referred to in the first paragraph of this section shall be an amount not less than
4 the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy
5 issued at the same age without term insurance on the life of the spouse and the cash surrender
6 value as defined in that paragraph for a policy which provides only the benefits otherwise
7 provided by term insurance on the life of the spouse.

8 Any cash surrender value available within thirty days after any policy anniversary under any
9 policy paid-up by completion of all premium payments or any policy continued under any paid-up
10 nonforfeiture benefit, whether or not required by § 58-15-31, shall be an amount not less than
11 the present value, on such anniversary of the future guaranteed benefits provided for by the
12 policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on
13 the policy.

14 If the cash surrender value is in excess of one million dollars, the term, cash surrender value,
15 may include payment of assets to the policyholder as well as payment of cash, if allowed under
16 the policy, with the consent of the policyholder. ~~The consent of the policyholder shall be on a~~
17 ~~form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

295I0064

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1209** -

02/20/2003

Introduced by: Representatives Fryslie, Elliott, Juhnke, and Klaudt and Senators Greenfield and Abdallah

1 FOR AN ACT ENTITLED, An Act to revise certain restrictions on the use of artificial lights to
2 hunt wild animals.

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

4 Section 1. That chapter 41-8 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 41-8-17, between 10 p.m. and sunrise, from September
7 first to January thirty-first, inclusive, no person holding a current big game license may cast the
8 rays of a spotlight, headlight, or other artificial light in any field, pasture, woodland, forest, or
9 prairie to spot, locate, take, or attempt to take any big game animal.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

507I0736

HOUSE ENGROSSED NO. **HB 1237** - 02/07/2003

Introduced by: Representatives Koistinen and Fryslie and Senator Greenfield

1 FOR AN ACT ENTITLED, An Act to provide for the correction of certain taxation errors by
2 political subdivisions.

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

4 Section 1. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a significant error, as determined by the board of county commissioners, has been made
7 in the budget or tax levy reported to the county auditor by the business manager, finance officer,
8 or clerk of a political subdivision within a county, or if the business manager, finance officer, or
9 clerk of the political subdivision requests that an unneeded tax levy be rescinded, the board of
10 county commissioners shall abate or refund the taxes levied as a result of the error or unneeded
11 tax levy. The board of county commissioners shall abate or refund such taxes only in the political
12 subdivision that submitted a budget or tax levy with an error or that requested that the unneeded
13 tax levy be rescinded.

14 Section 2. This Act is repealed on December 31, 2003.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

744I0741

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1242** - 02/06/2003

Introduced by: Representatives Konold and Solum and Senator Schoenbeck

1 FOR AN ACT ENTITLED, An Act to permit counties to revise property tax levies that were
2 lowered to maintain compliance with general fund balance carryover requirements.

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

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 10-13-35, if any county has decreased the total amount
7 of revenue payable from taxes on real property since 1998 to comply with the provisions § 7-21-
8 18.1 after receiving federal funds for disaster relief, such county may increase the total amount
9 of revenue payable from taxes on real property in 2004 to any previous amount of revenue
10 payable since 1999. For taxes payable in 2004, the county auditor shall calculate the maximum
11 amount of revenue payable that the county may have requested based on growth and the index
12 factor pursuant to § 10-13-35 and apply such growth and index factor to the previous amount.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

813I0458

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HCR 1008** -
02/20/2003

Introduced by: Representatives Garnos, Burg, Christensen, Craddock, Cutler, Davis, Dadrick (Thomas), Dykstra, Frost, Fryslie, Hackl, Hargens, Heineman, Hundstad, Juhnke, Klaudt, Kraus, Lintz, McCaulley, McCoy, McLaughlin, Nesselhuf, Olson (Mel), Rave, Rhoden, Schafer, Van Etten, Weems, Wick, and Williamson and Senators Koskan, Bogue, Dennert, Duxbury, Greenfield, Jaspers, and McCracken

1 A CONCURRENT RESOLUTION, Urging the adoption of a scientific drought relief program.

2 WHEREAS, many areas in South Dakota have been devastated by drought in recent years,
3 particularly during 2002; and

4 WHEREAS, preliminary estimates for drought damage to crops in South Dakota for 2002
5 is \$240.2 million and damage to forage is \$241.8 million; and

6 WHEREAS, the current and proposed systems of federal drought relief are not equitable in
7 several respects. The current and proposed systems do not provide livestock producers with the
8 same level of benefits provided for crop producers, do not help producers who were forced by
9 drought to sell off livestock, and do not help the producers of some species of livestock; and

10 WHEREAS, many of these problems could be corrected through the use of a scientific
11 approach that provides accurate estimates of drought damage to crops and forage so that
12 producers are treated more fairly and those with the greatest need would receive the greatest



1 assistance; and

2 WHEREAS, a scientific drought relief program would provide assistance to livestock and
3 crop producers in proportion to reduced production caused by the absence of moisture, with
4 payment based on deviation from normal moisture applied to the productivity of the land.
5 Compensation would be tied directly to the crops or livestock forage that did not grow because
6 of inadequate moisture:

7 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-
8 eighth Legislature of the State of South Dakota, the Senate concurring therein, that the South
9 Dakota Legislature urges the United States Congress and the United States Department of
10 Agriculture to redesign the federal approach to drought relief and to base drought relief on
11 scientific criteria that address actual impacts of drought on crops and livestock forage; and

12 BE IT FURTHER RESOLVED, that if the federal government does not adopt a system of
13 scientific drought relief, the Congress and the United States Department of Agriculture are urged
14 to allow the states flexibility to design their own drought relief systems in partnership with
15 federal officials and agencies to better address local and regional drought relief needs.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0276

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 35 - 02/21/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to revise the definition of gross receipts for sales and use
2 taxes.

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

4 Section 1. That subdivision (4) of § 10-45-1 be amended to read as follows:

5 (4) "Gross receipts," the total amount or consideration, including cash, credit, property,
6 and services, for which tangible personal property or services are sold, leased, or
7 rented, valued in money, whether received in money or otherwise, without any
8 deduction for the following:

9 (a) The retailer's cost of the property or service sold;

10 (b) The cost of materials used, labor or service cost, interest, losses, all costs of
11 transportation to the retailer, all taxes imposed on the retailer, and any other
12 expense of the retailer;

13 (c) Except as provided in chapter 10-46A or 10-46B, charges by the retailer for
14 any services necessary to complete the sale whether or not separately stated,
15 including delivery charges; and



1 (d) The value of exempt tangible personal property whether or not separately
2 stated on the invoice, billing, or similar document given to the purchaser where
3 taxable and exempt tangible personal property have been bundled together and
4 sold by the retailer as a single product or piece of merchandise;

5 Gross receipts do not include:

6 (a) Discounts, including cash, term, or coupons that are not reimbursed by a third
7 party that are allowed by a retailer and taken by a purchaser on a sale;

8 (b) Interest, financing, and carrying charges from credit extended on the sale of
9 tangible personal property or services, if the amount is separately stated on the
10 invoice, bill of sale or similar document given to the purchaser; ~~and~~

11 (c) Any taxes legally imposed directly on the consumer that are separately stated
12 on the invoice, bill of sale, or similar document given to the purchaser;

13 (d) Any rebate, buy down, credit, or other payment received by a retailer from a
14 manufacturer, wholesaler, or other person who is not the purchaser of the
15 product or service; and

16 (e) Any payment, including money, credits, property, or other consideration from
17 a wholesaler, manufacturer, or other person for preferential display or
18 placement of a service or a product;

19

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

480I0059

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 95** - 02/20/2003

Introduced by: Senator Vitter and Representative Hennies

1 FOR AN ACT ENTITLED, An Act to revise the circumstances in which motor vehicle lamps
2 are required to be in use.

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

4 Section 1. That § 32-17-4 be amended to read as follows:

5 32-17-4. Every vehicle upon a highway within this state during the period from a half hour
6 after sunset to a half hour before sunrise ~~and~~ or at any other time when there is not sufficient
7 light to render clearly discernible any person on the highway at a distance of two hundred feet
8 ahead, shall be equipped with lighted front and rear lamps as respectively required in §§ 32-17-1
9 to 32-17-26, inclusive, for different classes of vehicles and subject to exemption with reference
10 to lights on parked vehicles as declared in § 32-17-27. A violation of this section is a Class 2
11 misdemeanor. Any vehicle with lighted, properly operating daytime running lamps is in full
12 compliance with the requirements of this section if the vehicle is operated during the period of
13 time from a half hour before sunrise to a half hour after sunset.

14 Section 2. For the purposes of this Act, the term, daytime running lamps, means two lamps
15 installed on a motor vehicle by the original vehicle manufacturer, that are designed to be



1 continuously illuminated, that are mounted symmetrically on the front of a vehicle, that turn on
2 automatically when the ignition switch is turned on, and that are for the purpose of making the
3 vehicle more conspicuous when the regular headlamps are not required for driving.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

634I0469

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 102 - 02/20/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators McCracken, Dempster, Koetzle, Olson (Ed), and Sutton (Dan) and Representatives Heineman, Elliott, Frost, Hennies, Pederson (Gordon), and Peterson (Bill)

1 FOR AN ACT ENTITLED, An Act to limit certain liquor license renewal fees.

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

3 Section 1. That section 1 of House Bill 1100, as previously enacted by the Seventy-eighth
4 Session of the South Dakota Legislature be amended to read as follows:

5 Section 1. That § 35-4-2 be amended to read as follows:

6 35-4-2. Classes of licenses, with the fee of each class, follow:

7 (1) Distillers -- four thousand dollars. However, no license fee is required for
8 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer
9 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
10 dispose of alcohol for any use other than an industrial use, the license fee required by
11 this section shall be allocated to and payable for the portion of the year the
12 manufacturer devoted to such other use for each calendar month or fraction thereof
13 while so engaged, but in no case less than one-twelfth of said license fee;

14 (2) Wholesalers of alcoholic beverages -- five thousand dollars;



- 1 (3) Off-sale -- not less than five hundred dollars in municipalities of the first class, not
2 more than four hundred dollars in municipalities of the second class, and not more
3 than three hundred dollars in municipalities of the third class. The renewal fee for such
4 licenses may not exceed five hundred dollars in municipalities of the first class, four
5 hundred dollars in municipalities of the second class, and three hundred dollars in
6 municipalities of the third class;
- 7 (4) On-sale -- in municipalities of various classes: municipalities of the first class, not less
8 than one dollar for each person residing within the municipality as measured by the
9 last preceding federal census, the renewal fee for such license is fifteen hundred
10 dollars; municipalities of the second class, no more than twelve hundred dollars;
11 municipalities of the third class, no more than nine hundred dollars;
- 12 (5) Off-sale licenses issued to municipalities under local option -- not less than two
13 hundred fifty dollars;
- 14 (6) On-sale licenses issued outside municipalities -- except as provided in § 35-4-11.9, not
15 less than the maximum that the municipality to which the applicant is nearest is
16 charging for a like license in that municipality, the renewal fee shall be the same as is
17 charged for a like license in the nearest municipality. However, if the nearest
18 municipality is more than fifteen miles from the on-sale license, the fee shall be
19 established pursuant to § 35-4-11.10. If the municipality to which the applicant is
20 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a
21 specified fee, then the fee shall be the maximum amount that could be charged as if
22 the municipality had not been authorized to obtain on-sale licenses pursuant to
23 § 35-3-13. However, if the nearest municipality is a municipality of the first class and
24 is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be

1 more than one hundred fifty percent of the minimum a municipality not so authorized
2 may charge for a like license. The renewal fee shall be the same as could be charged
3 for a like license in the nearest municipality;

4 (7) Solicitors -- twenty-five dollars;

5 (8) Transportation companies -- twenty-five dollars;

6 (9) Carrier -- one hundred dollars, which fee entitles the licensee to sell or serve alcoholic
7 beverages on all conveyances the licensee operates within the state;

8 (10) Dispensers -- ten dollars;

9 (11) On-sale dealers at publicly operated airports -- two hundred fifty dollars;

10 (12) On-sale dealers in wine for Sunday -- five hundred dollars;

11 (13) Convention facility on-sale -- not less than one dollar for each person residing within
12 the municipality as measured by the last preceding federal census, the renewal fee for
13 such license, in municipalities of the first class, is fifteen hundred dollars; the renewal
14 fee for such license, in municipalities of the second class, is no more than twelve
15 hundred dollars; the renewal fee for such license, in municipalities of the third class,
16 is no more than nine hundred dollars;

17 (14) Manufacturers of malt beverages -- five hundred dollars;

18 (15) Wholesalers of malt beverages -- four hundred dollars;

19 (16) Malt beverage retailers, being both package dealers and on-sale dealers -- two
20 hundred fifty dollars;

21 (17) Malt beverage package dealers -- one hundred fifty dollars;

22 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
23 for each day of the week between the hours of seven o'clock a.m. and two o'clock
24 a.m. to nonprofit corporations established pursuant to chapter 7-27 -- two hundred

1 dollars; and

2 (19) Off-sale package wine dealers in table wines, sparkling wines, and sacramental wine

3 to be operated in conjunction with a farm winery established pursuant to chapter

4 35-12 -- one hundred fifty dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

573I0475

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 149** - 02/21/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Moore and Olson (Ed) and Representatives Sebert and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the sale or marketing
2 of unstamped cigarettes.

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

4 Section 1. That § 10-50-32 be amended to read as follows:

5 10-50-32. No ~~distributor may sell, and no other person, other than a person licensed pursuant~~
6 to § 10-50-9, may sell, offer for sale, display for sale, or possess with intent to sell, advertise for
7 sale, ship or cause to be shipped, or possess with intent to deliver to another person, any
8 cigarettes which do not bear stamps or an imprint impressed by a suitable metering machine
9 approved by the secretary as provided by this chapter, evidencing the payment of the tax imposed
10 by this chapter.

11 ~~— A violation of this section is a Class 2 misdemeanor.~~

12 The department shall, for the first offense, send a certified letter to any person who violates
13 this section and order such person to cease and desist from committing any further violations.

14 Any subsequent violation is a Class 6 felony.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

565I0597

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 177** - 02/21/2003

Introduced by: Senators de Hueck and Knudson and Representatives Garnos, Craddock, and
Van Gerpen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to contested cases under
2 the Administrative Procedures Act and the Office of Hearing Examiners.

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

4 Section 1. That § 1-26-18.3 be amended to read as follows:

5 1-26-18.3. In a any contested case, if the amount in controversy exceeds two thousand five
6 hundred dollars or if a property right may be terminated, any party to the contested case may
7 require the agency to use the Office of Hearing Examiners by giving notice of the request no later
8 than ten days ~~prior to the hearing. Except as otherwise provided for cases arising under Title 61,~~
9 ~~if such requesting party does not prevail, the Office of Hearing Examiners shall require the~~
10 ~~requesting party to pay the cost of the services rendered in hearing the contested case~~ after
11 service of a notice of hearing issued pursuant to § 1-26-17.

12 Section 2. That § 1-26-33 be amended to read as follows:

13 1-26-33. Within thirty days after the service of the notice of appeal, or within further time
14 allowed by the court, the agency shall transmit to the reviewing court the original or a certified
15 copy of the entire record of the proceeding under review. By stipulation of all parties to the



1 review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to
2 limit the record may be taxed by the court for the additional costs. The court may require or
3 permit subsequent corrections or additions to the record.

4 ~~It shall be the duty of the~~ The agency to or the Office of Hearing Examiners, if the contested
5 case was heard by the Office of Hearing Examiners, shall assemble and consecutively number the
6 pages of all documents, papers, and exhibits filed with the agency or office, including any
7 opinions and decisions which the agency or office may have filed or authorized for filing. The
8 agency or office shall then prepare and attach an alphabetical and chronological index to the
9 record and shall serve a copy of such index on all parties to the review proceedings at the time
10 the record is submitted to the reviewing court.

11 Section 3. That § 1-26D-8 be amended to read as follows:

12 1-26D-8. The reviewing agency shall personally consider the whole record or, alternatively,
13 such portions of it as may be mutually cited by the parties. If the reviewing agency rejects or
14 modifies proposed findings or a proposed decision, it the reviewing agency shall give reasons for
15 doing so in writing. In reviewing proposed findings of fact entered by the presiding hearing
16 examiner, the reviewing agency shall give due regard to the hearing examiner's opportunity to
17 observe the witnesses.

18 Section 4. That § 1-26D-10 be amended to read as follows:

19 1-26D-10. Within ten days after written notification to the parties of the appointment of a
20 hearing examiner in any contested case, any party to that contested case may file an affidavit
21 requesting the appointment of another hearing examiner. The chief hearing examiner shall then
22 appoint another hearing examiner to hear that contested case. Each party may file only one such
23 affidavit in any contested case.

24 Section 5. That § 1-26-17 be amended to read as follows:

1 1-26-17. The notice shall include:

2 (1) A statement of the time, place, and nature of the hearing;

3 (2) A statement of the legal authority and jurisdiction under which the hearing is to be
4 held;

5 (3) A reference to the particular sections of the statutes and rules involved;

6 (4) A short and plain statement of the matters asserted. If the agency or other party is
7 unable to state the matters in detail at the time the notice is served, the initial notice
8 may be limited to a statement of the issues involved. Thereafter upon application a
9 more definite and detailed statement shall be furnished;

10 (5) A statement of any action authorized by law, which may affect the parties, as a result
11 of any decision made at the hearing, whether it be the revocation of a license, the
12 assessment of a fine or other effect;

13 (6) A statement that the hearing is an adversary proceeding and that a party has the right
14 at the hearing, to be present, to be represented by a lawyer, and that these and other
15 due process rights will be forfeited if they are not exercised at the hearing;

16 (7) A statement that if the amount in controversy exceeds two thousand five hundred
17 dollars or if a property right may be terminated, any party to the contested case may
18 require the agency to use the Office of Hearing Examiners by giving notice of the
19 request to the agency no later than ten days after service of a notice of hearing issued
20 pursuant to § 1-26-17;

21 (8) A statement that the decision based on the hearing may be appealed to the circuit
22 court and the State Supreme Court as provided by law.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

480I0672

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 187 - 02/20/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Koetzle and Representative Lange

1 FOR AN ACT ENTITLED, An Act to clarify the authority of counties to grant certain utility
2 easements for the installation of underground cable.

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

4 Section 1. That § 31-26-1 be amended to read as follows:

5 31-26-1. The board of county commissioners, upon written application designating the
6 particular highway the use of which is desired, may grant to any person engaged in the
7 manufacture or sale of electric light and power, or any municipality authorized by law to
8 purchase electric current, or any person authorized by law to purchase such current from such
9 municipality, or any person engaged in, or about to engage in, the furnishing of telephone
10 service, the right to erect and maintain poles and wires or to bury underground cable for the
11 purpose of conducting electricity for lighting, heating, and power purposes, together with stay
12 wires and braces, and for the purpose of furnishing telephone service, in and along any public
13 highway in its county for a period not to exceed twenty years, subject to the conditions set forth
14 in this chapter and such further reasonable regulations as the Legislature may hereafter prescribe.

15 Section 2. That § 31-26-3 be amended to read as follows:



1 31-26-3. The poles and fixtures, guy wires, braces, and stays or underground cable buried
2 or erected under § 31-26-1 shall be located under the joint field supervision and direction of the
3 grantee and the governing body charged with the maintenance of the state trunk highway on
4 which they are placed and constructed consistent with the permit requirements adopted under
5 § 31-26-22. They shall be so constructed as not to inconvenience the public in the use of any
6 road or the navigation of any stream. An appeal from the decision of the Department of
7 Transportation may be taken to the Transportation Commission. An appeal from the decision of
8 the commission may be taken to the circuit court in the manner provided by law and the rules of
9 practice and procedure adopted by the Supreme Court.

10 Section 3. That § 31-26-5 be amended to read as follows:

11 31-26-5. The grantee under § 31-26-1 shall construct and maintain said poles, wires, or
12 underground cable and line in accordance with the National Electrical Safety Code adopted by
13 the Bureau of Standards of the United States Department of Commerce.

14 Section 4. That § 31-26-9 be amended to read as follows:

15 31-26-9. Any person who, having received a grant as to placing of wires and poles or
16 underground cable on a highway under this chapter, fails to comply with the provisions of
17 § 31-26-4, 31-26-5, or 31-26-7 commits a petty offense.

18 Section 5. That § 31-26-11 be amended to read as follows:

19 31-26-11. In the case of either a transmission line application or a telephone line application
20 under § 31-26-1, the applicant shall state the place where ~~his~~ the applicant's central plant is
21 located, the point or points to which ~~he~~ the applicant desires to transmit electricity or furnish
22 telephone service, and the route over which ~~he~~ the applicant desires to construct such lines ~~which~~
23 or bury underground cable. The application shall state what electric, telegraph, and telephone
24 lines are, at the time of making the application, occupying a part of the highway or highways

1 which the proposed lines are to occupy. Any applicant who hereafter desires to construct a
2 telephone line or bury underground cable shall state whether ~~he~~ the applicant has obtained a
3 certificate of convenience and necessity from the Public Utilities Commission.

4 Section 6. That § 31-26-12 be amended to read as follows:

5 31-26-12. If the applicant in the case of a transmission application, wishes to construct lines
6 or bury underground cable for rural electrification ~~he~~ the applicant may state that ~~he~~ the applicant
7 wishes to construct lines for rural electrification throughout the county, in which event ~~he~~ the
8 applicant need not show the point or points to which ~~he~~ the applicant desires to transmit
9 electricity nor the route, and if the application is granted to such applicant for rural electrification
10 county-wide authorization may be given to such applicant but subject to the other provisions of
11 this chapter. For the purposes of this chapter, a line or underground cable shall be deemed "for
12 rural electrification" if it carries at least one circuit of such voltage as is practical for and
13 customarily used in distributing electricity to farms.

14 Section 7. That § 31-26-13 be amended to read as follows:

15 31-26-13. ~~It shall be the duty of the county auditor to~~ The county auditor shall present an
16 application under § 31-26-1 to the board of county commissioners within thirty days after the
17 filing of the same, at a regular or special meeting called for that purpose and ~~to~~ shall give ten
18 days' notice by mail of such application and the time and place when and where such application
19 will be heard to all persons, firms, or corporations owning or operating electric, telephone, or
20 telegraph lines or underground cable on any part of the highway or highways which the proposed
21 lines may occupy.

22 Section 8. That § 31-26-15 be amended to read as follows:

23 31-26-15. If the application for construction or reconstruction of an electric line is granted
24 by the board of county commissioners, it shall be competent for such board to adjust any

1 differences that may arise between any such applicant and any owner or owners of any electric,
2 telephone, or telegraph line or underground cable affected by such decision, in the matter of
3 construction or reconstruction, and such board may adjust and apportion the costs which may
4 be occasioned in order to carry out the plans, methods, or means approved by the board as
5 deemed necessary to avoid or minimize interference or hazard; ~~provided, however,~~ However,
6 if there is a dispute between two telephone companies such dispute shall be adjusted by the
7 Public Utilities Commission.

8 Section 9. That § 31-26-18 be amended to read as follows:

9 31-26-18. ~~When~~ If the board of county commissioners ~~shall have~~ has granted the right to
10 any person to construct lines or bury underground cable for the transmission of electricity as
11 provided in §§ 31-26-1 to 31-26-17, inclusive, and if before constructing such line the applicant
12 ~~shall desire~~ desires to change the route designated in the grant, the board may change the route
13 upon application of the person constructing the same subject to the same provisions for placing
14 poles, fixtures, guy wires, braces, and stays or underground cable, as provided by law on original
15 construction.

16 Section 10. That § 31-26-21 be amended to read as follows:

17 31-26-21. Nothing contained in § 31-26-19 or 31-26-20 shall be construed to exempt anyone
18 owning or operating any telephone, telegraph, or electric line or underground cable in this state
19 from liability for any damage or injury which anyone may sustain by reason of the faulty or
20 negligent construction or maintenance of such telephone, telegraph, or electric line or
21 underground cable.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

71610167

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 196 - 02/20/2003

Introduced by: Senators Koetzle, Kloucek, and Sutton (Dan) and Representatives Miles and Lintz

1 FOR AN ACT ENTITLED, An Act to establish a presumption regarding occupational diseases
2 affecting firefighters.

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

4 Section 1. That chapter 62-8 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For any firefighter who is a full-time member of a paid fire department and who is covered
7 by the provisions of this chapter, there is a prima facie presumption that any of the following is
8 an occupational disease covered by this chapter:

9 (1) Any respiratory disease;

10 (2) Any heart problem that is experienced within seventy-two hours of exposure to
11 smoke, fumes, or toxic substances; and

12 (3) Any cancer as listed in section 2 of this Act.

13 This presumption of an occupational disease may be rebutted by a preponderance of the
14 evidence controverting the presumption.

15 Section 2. That chapter 62-8 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The presumption with regard to cancer established pursuant to this Act applies only to any
3 active or former firefighter who has cancer that develops or manifests itself after the firefighter
4 has served at least five years and who was given a qualifying medical examination upon
5 becoming a firefighter that showed no evidence of cancer. The presumption only applies to
6 primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer,
7 ureter cancer, and kidney cancer.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

507I0569

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 213** - 02/21/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Koskan and Representative Teupel

1 FOR AN ACT ENTITLED, An Act to prohibit hunting on certain school and public lands
2 containing unharvested crops.

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

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

6 No person may engage in hunting in any standing, unharvested crops on any school and
7 public lands.

