

AN ACT

ENTITLED, An Act to impose a tax on the net revenues of intermediate care facilities for the mentally retarded.

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

Section 1. Terms used in this Act mean:

- (1) "Department," the Department of Revenue and Regulation;
- (2) "Intermediate care facility for the mentally retarded," a treatment or care center as defined by 1905(d) of the Social Security Act and Code of Federal Regulations 42 CFR 435.1009 as of January 1, 2007;
- (3) "Net revenues," the revenue paid to an intermediate care facility for the mentally retarded for resident care, room, board, and services less contractual adjustments and does not include revenue from sources other than operations, including interest and guest meals.

Section 2. There is hereby imposed a tax of five and one-half percent on the net revenues of each intermediate care facility for the mentally retarded.

Section 3. The department shall collect and administer the tax imposed by this Act.

Section 4. The returns and remittances may be required at a time determined by the secretary of revenue and regulation. The provisions of chapter 10-59 are applicable to the tax imposed by this chapter.

Section 5. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 concerning:

- (1) Licensing, including bonding and filing license applications;
- (2) The filing of returns and payment of the tax;
- (3) Taxpayer record-keeping requirements; and
- (4) Determining auditing methods.

Section 6. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this Act is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this Act within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by this Act or refuses to exhibit these records to the secretary of revenue and regulation or the secretary's agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this Act within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Willfully violates any rule of the secretary of revenue and regulation for the administration and enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or
- (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-month period is guilty of a Class 6 felony.

Section 7. Each person subject to tax under this Act shall keep records and books of all receipts, together with invoices, and other pertinent papers and documents. The books and records and other papers and documents are, at all times during business hours of the day, subject to inspection by the secretary of revenue and regulation or the secretary's agents and employees to determine the amount of tax due. The books and records shall be preserved for a period of three years unless the secretary of revenue and regulation, in writing, authorized their destruction or disposal at an earlier date.

Section 8. Taxes collected under this Act shall be remitted to the state treasurer for credit to the state general fund to be used to help offset the cost of health care services provided to the citizens by the State of South Dakota.

Section 9. The tax implemented under section 2 of this Act is not due and payable until the Department of Social Services receives an approved medicaid state plan amendment from the Centers for Medicare and Medicaid Services.

An Act to impose a tax on the net revenues of intermediate care facilities for the mentally retarded.

I certify that the attached Act originated in the

HOUSE as Bill No. 1077

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1077

File No. _____

Chapter No. _____

Received at this Executive Office this ____ day of _____,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State