

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0266 SENATE COMMERCE COMMITTEE ENGROSSED NO.
SB 43 - 02/01/2007

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to provide for the registration of tobacco retailers.

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

3 Section 1. That § 10-50-9 be amended to read as follows:

4 10-50-9. Each person, except a retailer, engaging in the business of selling cigarettes or
5 tobacco products in this state, including any distributor or wholesaler, shall secure a license
6 therefore from the secretary of revenue and regulation. A separate application and license is
7 required for each wholesale outlet ~~when~~ if a person owns or controls more than one place of
8 business dealing in cigarettes or tobacco products. Each person selling cigarettes or tobacco
9 products at retail shall register with the Department of Revenue and Regulation. A separate
10 registration is required for each retail outlet operated within the state. No fee may be charged
11 for this registration.

12 Any person, except a retailer, who sells, offers for sale, or possesses with intent to sell, any
13 cigarettes or tobacco products, without a license or registration commits a petty offense.

14 Section 2. That § 10-50-13 be amended to read as follows:

15 10-50-13. Any license granted under this chapter may be transferred to a new location or to



1 another person. ~~Where~~ If the transfer is to another person, the licensee ~~must~~ shall show in
2 writing, under oath, that ~~he~~ the licensee has made a bulk sale of the business operated under
3 ~~such the~~ license, ~~and the~~. The transferee ~~must~~ shall make an application exactly as if an original
4 applicant, setting forth therein that ~~he~~ the transferee is the bulk sale purchaser of the business
5 operated under ~~such the~~ license and requesting that ~~such the~~ license be transferred to him or her.
6 If the transfer is to a new location, the licensee ~~must~~ shall make application showing all the
7 relevant facts as to ~~such the~~ new location, ~~which~~. The application shall take the same course and
8 be acted upon as if an original application. ~~In case of any transfer of any license affected by this~~
9 ~~chapter, a fee of two dollars and fifty cents shall be required to continue the unexpired portion~~
10 ~~of such license.~~

11 Section 3. That § 10-50-15 be amended to read as follows:

12 10-50-15. The secretary of revenue and regulation may revoke the license of any distributor
13 or wholesaler or the registration of a dealer for failure to comply with any of the provisions of
14 this chapter. Any person aggrieved by ~~such the~~ revocation may apply to the secretary for a
15 hearing as provided in § 10-50-46 and may further appeal to the court as provided in § 10-50-49.

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

17 10-50-32. No person, other than a ~~person licensed pursuant to § 10-50-9~~ licensed distributor,
18 may sell, offer for sale, display for sale, or possess with intent to sell, advertise for sale, ship or
19 cause to be shipped, or possess with intent to deliver to another person, any cigarettes which do
20 not bear stamps or an imprint impressed by a suitable metering machine approved by the
21 secretary as provided by this chapter, evidencing the payment of the tax imposed by this chapter.

22 A violation of this section is a Class 2 misdemeanor. Any subsequent violation is a Class
23 6 felony.

24 Section 5. That § 10-50-41 be amended to read as follows:

1 10-50-41. The secretary of revenue and regulation may examine the books, papers, and
2 records of any distributor, wholesaler, or dealer in this state, for the purpose of determining
3 whether the tax imposed by this chapter has been fully paid, and may investigate and examine
4 the stock of cigarettes or tobacco products in or upon any premises where ~~such~~ the cigarettes or
5 tobacco products are possessed, stored, or sold, for the purpose of determining whether the
6 provisions of this chapter are being obeyed. The secretary may make ~~such~~ the inspections and
7 examinations at any time during ordinary business hours, and may inspect at ~~such~~ the times the
8 premises and all desks, safes, vaults, and other fixtures and furniture contained in or upon ~~such~~
9 the premises for the purpose of ascertaining whether cigarettes or tobacco products are held or
10 possessed in violation of this chapter. Each dealer shall keep documents establishing that the
11 cigarettes and tobacco products in the dealer's inventory were purchased from a distributor or
12 wholesaler licensed by the State of South Dakota. The documents shall be kept for at least three
13 months. If the documents are not stored at the dealer's registered location, the documents shall
14 be made available in physical or electronic form to the secretary within five business days of the
15 receipt of the request from the secretary.

16 Section 6. That § 10-50-62 be amended to read as follows:

17 10-50-62. Tobacco products may be sold by licensed distributors and licensed wholesalers
18 only to dealers. ~~Dealers who buy or receive tobacco products from persons other than licensed~~
19 ~~distributors or licensed wholesalers must pay the tax imposed in § 10-50-61. However, the~~
20 ~~dealer may elect to report and remit the tax on the cost price of the tobacco products to the~~
21 ~~dealer rather than on the wholesale purchase price. Tobacco dealers may purchase tobacco~~
22 products only from licensed wholesalers and distributors. A violation of this section is a Class
23 2 misdemeanor.

24 Section 7. That § 10-50-93 be amended to read as follows:

1 10-50-93. No person may make a delivery sale of cigarettes to any ~~individual~~ person who
2 is under the legal minimum purchase age in the state.

3 Any person accepting a purchase order for a delivery sale shall comply with:

- 4 (1) The age verification requirements provided in § 10-50-94;
5 (2) The disclosure requirements provided in § 10-50-95;
6 (3) The shipping requirements provided in § 10-50-96;
7 (4) The registration and reporting requirements provided in § 10-50-97; ~~and~~
8 (5) All other statutes of the state generally applicable to sales of cigarettes that occur
9 entirely within the state, and any law imposing an excise tax, sales tax, license,
10 revenue-stamping requirement, and escrow payment obligation as provided in chapter
11 10-50B; and
12 (6) The registration requirements in § 10-50-9.

13 Section 8. That § 10-50-16 be amended to read as follows:

14 10-50-16. Any person who sells any cigarettes or tobacco products after such person's
15 license or registration has been revoked commits a petty offense, and all cigarettes or tobacco
16 products in such person's possession shall be seized and forfeited to the state pursuant to chapter
17 23A-37.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

429N0104

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 82** - 02/05/2007

Introduced by: Senators Dempster, Albers, Gray, Hanson (Gary), Heidepriem, Hunhoff, and McCracken and Representatives Hargens, Gillespie, Howie, Moore, Rave, Rhoden, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain fees charged by sheriffs.

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

3 Section 1. That § 7-12-18 be amended to read as follows:

4 7-12-18. The sheriff shall charge and remit the following:

5 (1) For serving an order of arrest with commitment or bail bond and return, ~~ten~~ twenty-
6 five dollars;

7 (2) ~~For each search on a search warrant, four dollars;~~

8 ~~—(3) For arresting under search warrant, each defendant, six dollars;~~

9 ~~—(4) For serving summons, complaint, warrant of attachment, affidavit, notice and~~
10 ~~undertaking in claim and delivery, or injunction, order to show cause, citation, or~~
11 ~~other process, and return thereof, sixteen dollars and fifty cents~~ of the instrument,

12 twenty-five dollars for all such process or instruments served at the same time upon
13 the same person regardless of the capacities in which such person is served, ~~but,~~

14 However, for all such process or instruments served upon another such person at



- 1 approximately the same time at the same place, five dollars;
- 2 ~~(5)~~(3) For serving subpoena for witness, each person, ~~seven dollars and fifty cents~~ ten
- 3 dollars;
- 4 ~~(6)~~ For taking and filing undertaking in claim and delivery or other indemnification to
- 5 ~~be furnished to and approved by the sheriff, six dollars;~~
- 6 ~~(7)~~(4) For traveling expenses in cars or planes owned by the sheriff, or necessary emergency
- 7 ~~vehicles~~ a motor vehicle, a minimum mileage allowance of at least three cents over
- 8 and above the rate set for state employees by the State Board of Finance but not more
- 9 than six cents above the rate set for state employees by the State Board of Finance,
- 10 as determined by the board of county commissioners, for each mile actually and
- 11 necessarily traveled by ~~car~~, motor vehicle. For traveling expenses in a private plane,
- 12 a mileage allowance of ten cents above the rate set for state employees by the State
- 13 Board of Finance for each mile actually and necessarily traveled by private plane;
- 14 ~~except.~~ However, actual cost may be paid for travel by train, bus, plane, or other
- 15 commercial vehicle;
- 16 ~~(8)~~(5) For serving writ of execution and return ~~thereof of the instrument~~, whether satisfied
- 17 or unsatisfied, ~~sixteen~~ thirty-five dollars;
- 18 ~~(9)~~(6) For levying writ of possession, ~~eleven~~ twenty-five dollars. However, if the sale of the
- 19 property levied upon is not subsequently held, the actual costs or expenses associated
- 20 with levying writ of possession shall be paid;
- 21 ~~(10)~~ For serving notice upon each juror who refuses or neglects to accept service of
- 22 summons mailed by the clerk, four dollars, and twenty cents for each mile actually
- 23 and necessarily traveled;
- 24 ~~(11)~~ For each person not on the regular panel called as a juror during any term of court by

1 order of the court, two dollars, and fifteen cents for each mile actually and necessarily
2 traveled;

3 ~~—(12) For summoning special jury, for each person impaneled, two dollars;~~

4 ~~—(13) For serving notice of motion or other notice or order of court, two dollars;~~

5 ~~—(14) For executing writ of habeas corpus and return, three dollars and twenty-five cents;~~

6 ~~—(15) For serving writ of restitution and return, eight dollars;~~

7 ~~—(16) For calling inquest to appraise any goods and chattels which the sheriff may be
8 required to have appraised, four dollars, and to each appraiser to be taxed as cost, ten
9 dollars;~~

10 ~~(17)~~(7) For advertisement of sale in newspaper, in addition to printing, ~~seven~~ twenty-
11 five dollars;

12 ~~(18)~~(8) For posting notices of sale of real property, ~~five~~ twenty-five dollars, and
13 mileage;

14 ~~(19)~~(9) For executing writ or order of partition, ~~thirteen~~ twenty-five dollars;

15 ~~(20)~~(10) For making deed for land sold on execution or order of sale, ~~twenty-six~~ fifty
16 dollars except no fee is charged when the deed only requires the sheriff's
17 signature;

18 ~~(21)~~(11) In addition to the applicable fees and expenses, a commission on all money
19 received and disbursed by the sheriff on execution or order of sale, order of
20 attachment, decree or on sale of real property or personal property, for each
21 dollar not exceeding four hundred dollars, ~~nine~~ eleven cents; for each dollar
22 above four hundred dollars, and not exceeding one thousand dollars, ~~five~~
23 seven cents; for each dollar above one thousand dollars, ~~not to exceed and not~~
24 exceeding fifteen thousand dollars, five cents; for each dollar above fifteen

1 thousand dollars, and not exceeding twenty-five thousand dollars, three cents;
 2 ~~but. However,~~ in no case may the commission be less than ~~fifteen~~ twenty-five
 3 dollars. The commissions shall be included as a part of the cost of execution,
 4 order of sale, order of attachment, decree, or on sale of real or personal
 5 property, which shall be paid by the debtor out of the proceeds. However, in
 6 all cases of redemption prior to the sale, the sheriff is entitled to the
 7 commission as stated above, to be paid by the redemptioner as a cost of the
 8 redemption;

9 ~~(22)~~(12) For cases in the circuit court, if persons, in whose favor an execution or order
 10 of sale is issued, bid in the property sold on execution or decree, the sheriff or
 11 officer making the sale shall receive the following compensation: If the
 12 amount for which the property is bid in is one thousand dollars or less, the sum
 13 of twenty dollars; ~~if.~~ If the amount for which the property is bid in is more
 14 than one thousand dollars, the sum of ~~forty~~ fifty dollars;

15 ~~(23)~~(13) For making a sale of real property under a foreclosure of mortgage by
 16 advertisement, the same fees as for the sale of real property under a judgment
 17 of foreclosure and sale of real property; and

18 ~~(24)~~(14) If personal property is taken by the sheriff on execution or warrant of
 19 attachment and applied in the satisfaction of the debt without sale, the same
 20 percentage on the appraised value of the property as in the case of a sale and
 21 all additional reasonable and necessary costs and expenses incurred in
 22 executing the duties of sheriff ~~under this chapter to the extent that such costs~~
 23 ~~and expenses are not otherwise reimbursed~~ including expenses associated with
 24 the removal of property from the premises.

- 1 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.
- 2 The fees established pursuant to this section shall be used for law enforcement purposes.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

808N0303

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 97** - 02/05/2007

Introduced by: Senator Knudson and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to revise certain miscellaneous provisions of the trust
2 statutes.

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

4 Section 1. That § 43-3-14 be amended to read as follows:

5 43-3-14. ~~When~~ If a future interest is limited to successors, heirs, issue, or children,
6 ~~posthumous children are~~ any posthumous child is entitled to take in the same manner as if living
7 ~~at the death of their parent,~~ if the child was conceived prior to the decedent's death, was born
8 within ten months of the decedent's death, and survived one hundred twenty hours or more after
9 birth.

10 Section 2. That § 43-3-16 be amended to read as follows:

11 43-3-16. A future interest, depending on the contingency of the death of any person without
12 successors, heirs, issue, or children, is defeated by the birth of a posthumous child of such
13 person, capable of taking by succession, if the posthumous child was conceived prior to the
14 decedent's death, was born within ten months of the decedent's death, and survived one hundred
15 twenty hours or more after birth.



1 Section 3. That § 29A-2-108 be amended to read as follows:

2 29A-2-108. An individual ~~in gestation at a particular time~~ is treated as living at that time if
3 ~~the individual lives 120~~ the individual was conceived prior to a decedent's death, born within
4 ten months of a decedent's death, and survived one hundred twenty hours or more after birth.

5 Section 4. That subdivision (6) of § 29A-1-201 be amended to read as follows:

6 (6) "Child" includes an individual entitled to take as a child under this code by intestate
7 succession from the parent whose relationship is involved and excludes a person who
8 is only a stepchild, a foster child, a grandchild, or any more remote descendant. Any
9 child of a deceased parent who is born after the decedent's death is considered a child
10 in being at the decedent's death, if the child was conceived prior to the decedent's
11 death, was born within ten months of the decedent's death, and survived one hundred
12 twenty hours or more after birth.

13 Section 5. That chapter 55-1 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 If a trust has a transfer restriction allowed in chapter 55-16, or is a trust subject to chapter
16 55-16, in the event of the divorce or dissolution of the marriage of a beneficiary of the trust, the
17 beneficiary's interest in the trust is not considered property subject to division under § 25-4-44
18 or a part of a property division under § 25-4-44. Unless otherwise agreed to in writing by the
19 parties to the marriage, this section does not apply to a settlor's interest in a trust subject to
20 chapter 55-16 with respect to assets transferred to the trust:

- 21 (1) After the settlor's marriage; or
22 (2) Within one hundred eighty days before the settlor's marriage unless the settlor gives
23 written notice of the transfer to the other party to the marriage.

24 Section 6. That § 55-16-15 be amended to read as follows:

1 55-16-15. Notwithstanding the provisions of §§ 55-16-9 to 55-16-14, inclusive, this chapter
2 does not apply in any respect:

3 (1) ~~To~~ Except as provided for in section 5 of this Act, to any person to whom the
4 transferor is indebted on account of an agreement or order of court for the payment
5 of support or alimony in favor of such transferor's spouse, former spouse, or children,
6 or for a division or distribution of property in favor of such transferor's spouse or
7 former spouse, to the extent of such debt; or

8 (2) To any person who suffers death, personal injury, or property damage on or before
9 the date of a qualified disposition by a transferor, which death, personal injury, or
10 property damage is at any time determined to have been caused in whole or in part
11 by the act or omission of either such transferor or by another person for whom such
12 transferor is or was vicariously liable. Subdivision (1) does not apply to any claim for
13 forced heirship or legitime.

14 Section 7. That § 43-45-18 be repealed.

15 ~~43-45-18. In the event that any court of South Dakota finds the exemption provided in § 43-~~
16 ~~45-16 is excessive, the court is hereby directed to determine the amount of the exemption~~
17 ~~permissible under the S.D. Const., Art. XXI, § 4.~~

18 Section 8. That chapter 15-2 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If § 1-22-30 or § 55-3-41 do not apply, absent fraud, intentional misrepresentation, or
21 material omission, an action to recover for breach of trust against a qualified person as defined
22 in § 55-3-41 or an officer, director or employee of a qualified person may be commenced only
23 within two years of a trustee's accounting for the period of the breach pursuant to chapter 55-3.
24 In the case of fraud, intentional misrepresentation or material omission, the limitation period

1 does not commence to run until discovery of the breach of trust.

2 Section 9. That § 55-1A-9 be amended to read as follows:

3 55-1A-9. A trustee may invest and reinvest trust assets in any property or in an undivided
4 interest in any property, wherever located, including bonds, debentures, secured or unsecured
5 notes, preferred or common stock of corporations, real estate or improvements thereon or any
6 interest therein, oil and mineral leases or royalty or similar interests, and interests in trusts
7 including investment trusts and common trust funds maintained by a corporate trustee and any
8 affiliated investments as defined in § 55-1A-9. Any such investments may be made, regardless
9 of any lack of diversification. ~~In the absence of an express prohibition in the trust instrument,~~
10 ~~the trustee may acquire and retain securities of any open-end or closed-end management type~~
11 ~~investment company or investment trust registered under the Federal Investment Company Act~~
12 ~~of 1940, as amended to January 1, 1993. The fact that the trustee, or an affiliate of the trustee,~~
13 ~~is providing services to the investment company or trust as investment advisor, sponsor, broker,~~
14 ~~distributor, custodian, transfer agent, registrar or otherwise, and receiving compensation for the~~
15 ~~services does not preclude the trustee from investing in the securities of that investment~~
16 ~~company or trust. The trustee shall disclose to all current income beneficiaries of the trust the~~
17 ~~rate, formula and method of the compensation.~~

18 Section 10. That chapter 55-1A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 (a) As used in this section:

21 (1) "Investment" shall mean any security as defined in § 2(a)(1) of the Securities Act of
22 1933, any contract of sale of a commodity for future delivery within the meaning of
23 § 2(i) of the Commodity Exchange Act, or any other asset permitted for trustee
24 accounts pursuant to the terms of this title or by the terms of the governing

1 instrument, including by way of illustration and not limitation, individual portfolios
2 of investment holdings, shares or interests in a private investment fund (including a
3 private investment fund organized as a limited partnership, limited liability company,
4 trust or other form, a statutory or common law business trust, or a real estate
5 investment trust), joint venture or other general or limited partnership, or an open-end
6 or closed-end management type investment company or investment trust registered
7 under the Investment Company Act of 1940;

8 (2) "Affiliate" means any corporation or other entity that directly or indirectly through
9 one or more intermediaries controls, is controlled by or is under common control
10 with the trustee;

11 (3) "Affiliated Investment" means an investment for which the trustee or an affiliate of
12 the trustee acts as investment adviser, sponsor, administrator, distributor, placement
13 agent, underwriter, broker, custodian, transfer agent, registrar or in any other capacity
14 for which it receives or has received a fee or commission from such investment or
15 an investment acquired or disposed of in a transaction for which the trustee or an
16 affiliate of the trustee receives or has received a fee or commission;

17 (4) "Fee or commission" means compensation paid to a trustee or an affiliate thereof on
18 account of its services to or on behalf of an investment, including by way of
19 illustration and not limitation, advisory fees, management fees, brokerage fees,
20 service fees, special performance fees, profit allocations, and expense
21 reimbursements.

22 (b) In the absence of an express prohibition in the trust instrument, a trustee may purchase,
23 sell, hold or otherwise deal with an affiliate or an interest in an affiliated investment and, upon
24 satisfaction of the conditions stated in subsection (c) of this section, such trustee may receive

1 trustee compensation from such account at the same rate as the trustee would otherwise be
2 entitled to be compensated.

3 (c) A trustee seeking compensation pursuant to subsection (b) of this section shall disclose
4 to all qualified beneficiaries, as defined in § 55-2-13, all fees, commissions, compensation or
5 other benefits and profits paid or to be paid by the account, or received or to be received by an
6 affiliate arising from such affiliated investment. The disclosure required under this subsection
7 may be given either in a copy of the prospectus or any other disclosure document prepared for
8 the affiliated investment under federal or state securities laws or in a written summary that
9 includes all fees, commissions, compensation or other benefits and profits received or to be
10 received by the trustee or any affiliate of the trustee and an explanation of the manner in which
11 such fees, commissions, compensation or other benefits and profits are calculated (either as a
12 percentage of the assets invested or by some other method). Such disclosure shall be made at
13 least annually unless there has been no increase in the rate at which such fees or commissions
14 are calculated since the most recent disclosure.

15 (d) A trustee that has complied with subsection (c) of this section (whether by making the
16 applicable disclosure or by relying on the terms of a governing instrument or court order) shall
17 have full authority to administer an affiliated investment (including the authority to vote proxies
18 thereon) without regard to the affiliation between the trustee and the investment.

19 Section 11. That § 55-2-13 be amended to read as follows:

20 55-2-13. For purposes of this section, the term, qualified beneficiary, means a beneficiary
21 who, on the date the beneficiary's qualification is determined:

- 22 (1) Is a distributee or permissible distributee of trust income or principal;
- 23 (2) Would be a distributee or permissible distributee of trust income or principal if the
24 interests of the distributees terminated on that date; or

1 (3) Would be a distributee or permissible distributee of trust income or principal if the
2 trust terminated on that date.

3 Except as otherwise provided by the terms of the trust or otherwise directed by the ~~grantor~~
4 settlor at any time, within sixty days after the date the trustee of an irrevocable trust acquires
5 knowledge of the creation of an irrevocable trust, or upon the date the trustee acquires
6 knowledge that a formerly revocable trust has become irrevocable, whether by death of the
7 ~~trustor~~ settlor or otherwise, the trustee shall notify the qualified beneficiaries of the trust's
8 existence, of the identity of the ~~trustor or trustors~~ settlor or settlors, and of the right of the
9 beneficiary to request a copy of the trust instrument.

10 A trustee of an irrevocable trust:

11 (1) Upon request of a qualified beneficiary, shall promptly furnish to the qualified
12 beneficiary a copy of the trust instrument;

13 (2) If notification of the trust has not been accomplished pursuant to this section within
14 sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the
15 acceptance and of the trustee's name, address, and telephone number;

16 (3) Shall promptly respond to a qualified beneficiary's request for information related to
17 the administration of the trust, unless the request is unreasonable under the
18 circumstances.

19 The provisions of this section are effective for trusts created after July 1, 2002.

20 Section 12. That chapter 55-2 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 A trustee of a revocable trust:

23 (1) Subject to subdivision 3 below, shall keep the settlor reasonably informed of the trust
24 and its administration;

1 (2) Unless otherwise provided in the trust instrument, does not have a duty to inform a
 2 trust beneficiary of the trust and its administration, other than the settlor or, if the
 3 trustor is an incapacitated person, the trustor's designated agent;

4 (3) Unless otherwise provided in the trust instrument, if the trustee obtains actual
 5 knowledge that the settlor of a revocable trust is an incapacitated person and has no
 6 designated agent, the trustee may in its sole discretion keep each interested trust
 7 beneficiary, who, if the settlor were then deceased, would be a current trust
 8 beneficiary, reasonably informed of the trust and its administration. Notwithstanding
 9 the provisions of the trust instrument, upon good cause shown, the court may order
 10 the trustee to keep other beneficiaries reasonably informed of the trust and its
 11 administration.

12 Section 13. That § 55-4-30 be amended to read as follows:

13 55-4-30. ~~The~~ Subject to the final paragraph below, the settlor of any trust affected by this
 14 chapter may, ~~by~~:

15 (1) By provision in the instrument creating the trust if the trust was created by a writing;
 16 ~~or by~~;

17 (2) By oral statement to the trustee at the time of the creation of the trust if the trust was
 18 created orally, ~~or by~~; or

19 (3) By an amendment of the trust, if the settlor reserved the power to amend the trust,
 20 relieve the trustee from any or all of the duties, restrictions, and liabilities which
 21 would otherwise be imposed upon the trustee by this chapter; or alter or deny to the
 22 trustee any or all of the privileges and powers conferred upon the trustee by this
 23 chapter; or add duties, restrictions, liabilities, privileges, or powers, to those imposed
 24 or granted by this chapter. However, no act of the settlor relieves a trustee from the

1 duties, restrictions, and liabilities imposed upon the trustee by §§ 55-4-10 to 55-4-12,
2 inclusive.

3 A provision of a trust instrument relieving a trustee of liability for breach of trust is
4 unenforceable to the extent that it relieves the trustee of liability for breach of trust committed
5 in bad faith or as a result of gross negligence.

6 Section 14. That § 55-16-2 be amended to read as follows:

7 55-16-2. For the purposes of this chapter, a trust instrument, is an instrument appointing a
8 qualified trustee for the property that is the subject of a disposition, which instrument:

- 9 (1) Expressly incorporates the law of this state to govern the validity, construction, and
10 administration of the trust;
- 11 (2) Is irrevocable, but a trust instrument may not be deemed revocable on account of its
12 inclusion of one or more of the following:
 - 13 (a) A transferor's power to veto a distribution from the trust;
 - 14 (b) A power of appointment, other than a power to appoint to the transferor, the
15 transferor's creditors, the transferor's estate, or the creditors of the transferor's
16 estate, exercisable by will or other written instrument of the transferor
17 effective only upon the transferor's death;
 - 18 (c) The transferor's potential or actual receipt of income, including rights to such
19 income retained in the trust instrument;
 - 20 (d) The transferor's potential or actual receipt of income or principal from a
21 charitable remainder unitrust or charitable remainder annuity trust as such
22 terms are defined in § 664 of the Internal Revenue Code of 1986, 26 U.S.C.
23 § 664, as of January 1, 2005;
 - 24 (e) The transferor's receipt each year of a percentage, not to exceed five percent,

1 specified in the trust instrument of the initial value of the trust or its value
2 determined from time to time pursuant to the trust instrument;

3 (f) The transferor's potential or actual receipt or use of principal if such potential
4 or actual receipt or use of principal would be the result of a qualified trustee
5 or qualified trustees, including a qualified trustee or qualified trustees acting
6 at the direction of a trust advisor described in this section, acting either in such
7 qualified trustee's or qualified trustees' sole discretion or pursuant to an
8 ascertainable standard contained in the trust instrument;

9 (g) The transferor's right to remove a trustee or trust advisor and to appoint a new
10 trustee or trust advisor, other than a person who is a related or subordinate
11 party with respect to the transferor within the meaning of § 672(c) of the
12 Internal Revenue Code of 1986, 26 U.S.C. § 672(c), as of January 1, 2005;

13 (h) The transferor's potential or actual use of real property held under a qualified
14 personal residence trust within the meaning of such term as described in
15 § 2702(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 2702(c), as of
16 January 1, 2005;

17 (i) A pour back provision that pours back to the transferor's will or revocable trust
18 all or part of the trust assets;

19 (3) Provides that the interest of the transferor or other beneficiary in the trust property
20 or the income therefrom may not be transferred, assigned, pledged, or mortgaged,
21 whether voluntarily or involuntarily, before the qualified trustee or qualified trustees
22 actually distribute the property or income therefrom to the beneficiary, and such
23 provision of the trust instrument shall be deemed to be a restriction on the transfer
24 of the transferor's beneficial interest in the trust that is enforceable under applicable

1 nonbankruptcy law within the meaning of § 541(c)(2) of the Bankruptcy Code, 11
2 U.S.C. § 541(c)(2), as of January 1, 2005;

3 (4) A disposition by a trustee that is not a qualified trustee to a trustee that is a qualified
4 trustee may not be treated as other than a qualified disposition solely because the trust
5 instrument fails to meet the requirements of subdivision (1) of this section.

6 Section 15. That § 55-16-13 be amended to read as follows:

7 55-16-13. Notwithstanding any other provision of law, no action of any kind, including an
8 action to enforce a judgment entered by a court or other body having adjudicative authority, may
9 be brought at law or in equity against the trustee, or advisor described in § 55-16-4, of a trust
10 that is the subject of a qualified disposition, or against any person involved in the counseling,
11 drafting, preparation, execution, or funding of a trust that is the subject of a qualified
12 disposition, if, as of the date such action is brought, an action by a creditor with respect to such
13 qualified disposition would be barred under §§ 55-16-9 to 55-16-12, inclusive. A court of this
14 state has exclusive jurisdiction over an action brought under a claim for relief that is based on
15 a transfer of property to a trust that is the subject of this section.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

445N0285

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 135** - 02/05/2007

Introduced by: Senators Bartling, Albers, Gant, Gray, Hanson (Gary), Koetzle, McCracken, Nesselhuf, Olson (Ed), and Turbak and Representatives Hargens, Cutler, Dykstra, Gillespie, Hanks, Hunt, Lucas, Moore, Noem, Pederson (Gordon), Pitts, Rave, Rounds, and Weems

1 FOR AN ACT ENTITLED, An Act to increase the minimum salary payable to county officials,
2 state's attorneys, and sheriffs.

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

4 Section 1. That § 7-7-9.1 be amended to read as follows:

5 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable
6 to the county treasurer, county auditor, and county register of deeds. The salary payable may not
7 be less than the following schedule as based upon the most recent decennial federal census of
8 population for counties:

9	County Population	Salary Schedule
10	Below 10,000	\$25,689 <u>\$27,480</u>
11	10,000-14,999	26,234 <u>\$28,062</u>
12	15,000-24,999	27,305 <u>\$29,208</u>
13	25,000-69,999	29,983 <u>\$32,073</u>
14	70,000 and over	32,324 <u>\$34,577</u>



1 The board of county commissioners may not decrease the salary of the county treasurer,
 2 county auditor, or county register of deeds during consecutive terms of office of the county
 3 treasurer, county auditor, or county register of deeds.

4 Section 2. That § 7-7-9.1 be amended to read as follows:

5 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable
 6 to the county treasurer, county auditor, and county register of deeds. The salary payable may not
 7 be less than the following schedule as based upon the most recent decennial federal census of
 8 population for counties:

9	County Population	Salary Schedule
10	Below 10,000	\$25,689 <u>\$29,270</u>
11	10,000-14,999	26,234 <u>\$29,891</u>
12	15,000-24,999	27,305 <u>\$31,111</u>
13	25,000-69,999	29,983 <u>\$34,163</u>
14	70,000 and over	32,324 <u>\$36,830</u>

15 The board of county commissioners may not decrease the salary of the county treasurer,
 16 county auditor, or county register of deeds during consecutive terms of office of the county
 17 treasurer, county auditor, or county register of deeds.

18 Beginning on January 1, 2010, and each year thereafter, the minimum salary payable for
 19 each position specified in this section shall be increased by three percent or by the annual
 20 percentage change in the consumer price index for urban wage earners and clerical workers as
 21 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
 22 year before the year immediately preceding the year of adjustment, whichever is less.

23 Section 3. That § 7-7-10.1 be amended to read as follows:

24 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary
 25 payable for the combination of two or more of the following county elected positions. The salary

1 payable may not be less than the minimum salary provided by this section as based upon the
2 most recent decennial federal census of population for counties.

3 For the combination of two of the following: county treasurer, county auditor, or county
4 register of deeds, the minimum salary for counties shall be:

5	County Population	Salary Schedule
6	Below 10,000	\$27,000 <u>\$28,881</u>
7	10,000-14,999	28,500 <u>\$30,485</u>
8	15,000-24,999	30,000 <u>\$32,090</u>
9	25,000-69,999	33,000 <u>\$35,300</u>
10	70,000 and over	36,000 <u>\$38,510</u>

11 For the combination of all three of the following: county treasurer, county auditor, and
12 county register of deeds, the minimum salary for counties shall be:

13	County Population	Salary Schedule
14	Below 10,000	\$29,000 <u>\$31,020</u>
15	10,000-14,999	30,500 <u>\$32,625</u>
16	15,000-24,999	32,000 <u>\$34,230</u>
17	25,000-69,999	35,000 <u>\$37,440</u>
18	70,000 and over	39,000 <u>\$41,720</u>

19 Section 4. That § 7-7-10.1 be amended to read as follows:

20 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary
21 payable for the combination of two or more of the following county elected positions. The salary
22 payable may not be less than the minimum salary provided by this section as based upon the
23 most recent decennial federal census of population for counties.

24 For the combination of two of the following: county treasurer, county auditor, or county
25 register of deeds, the minimum salary for counties shall be:

1	County Population	Salary Schedule
2	Below 10,000	\$27,000 <u>\$30,764</u>
3	10,000-14,999	28,500 <u>\$32,475</u>
4	15,000-24,999	30,000 <u>\$34,185</u>
5	25,000-69,999	33,000 <u>\$37,600</u>
6	70,000 and over	36,000 <u>\$41,018</u>

7 For the combination of all three of the following: county treasurer, county auditor, and
8 county register of deeds, the minimum salary for counties shall be:

9	County Population	Salary Schedule
10	Below 10,000	\$29,000 <u>\$33,045</u>
11	10,000-14,999	30,500 <u>\$34,752</u>
12	15,000-24,999	32,000 <u>\$36,460</u>
13	25,000-69,999	35,000 <u>\$39,880</u>
14	70,000 and over	39,000 <u>\$44,437</u>

15 Beginning on January 1, 2010, and each year thereafter, the minimum salary payable for
16 each position specified in this section shall be increased by three percent or by the annual
17 percentage change in the consumer price index for urban wage earners and clerical workers as
18 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
19 year before the year immediately preceding the year of adjustment, whichever is less.

20 Section 5. That § 7-7-12 be amended to read as follows:

21 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable
22 to the state's attorney. The salary payable may not be less than the following schedule as based
23 upon the most recent decennial federal census of population for counties:

24	County Population	Salary Schedule
25	Below 5,000	\$26,250 <u>\$28,075</u>

1	5,000 - 9,999	\$28,600 <u>\$30,600</u>
2	10,000 - 20,000	\$33,800 <u>\$36,150</u>
3	20,000 - 49,999	\$36,250 <u>\$38,775</u>

4 In counties of over fifty thousand population where a full-time state's attorney is required
5 or in counties where the commissioners designate the position full-time ~~the sum of fifty-four~~
6 ~~thousand four hundred~~ the minimum salary payable is fifty-eight thousand one hundred fifty
7 dollars per year. In counties of less than fifty thousand population the commissioners may
8 designate the position full-time. The decision by the commissioners shall be adopted prior to
9 the first day of January in the year of the election and may not be amended for that term of
10 office. However, if no state's attorney is elected to the office at any general election, the board
11 of county commissioners may contract for such legal services and negotiate the compensation
12 therefor on terms and conditions determined by the board of county commissioners. The board
13 of county commissioners may not decrease the salary of the state's attorney during consecutive
14 terms of office of the state's attorney.

15 Section 6. That § 7-7-12 be amended to read as follows:

16 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable
17 to the state's attorney. The salary payable may not be less than the following schedule as based
18 upon the most recent decennial federal census of population for counties:

19	County Population	Salary Schedule
20	Below 5,000	\$26,250 <u>\$29,900</u>
21	5,000 - 9,999	\$28,600 <u>\$32,600</u>
22	10,000 - 20,000	\$33,800 <u>\$38,500</u>
23	20,000 - 49,999	\$36,250 <u>\$41,300</u>

24 In counties of over fifty thousand population where a full-time state's attorney is required
25 or in counties where the commissioners designate the position full-time ~~the sum of fifty-four~~

1 ~~thousand four hundred~~ the minimum salary payable is sixty-one thousand nine hundred dollars
 2 per year. In counties of less than fifty thousand population the commissioners may designate the
 3 position full-time. The decision by the commissioners shall be adopted prior to the first day of
 4 January in the year of the election and may not be amended for that term of office. However,
 5 if no state's attorney is elected to the office at any general election, the board of county
 6 commissioners may contract for such legal services and negotiate the compensation therefor on
 7 terms and conditions determined by the board of county commissioners. The board of county
 8 commissioners may not decrease the salary of the state's attorney during consecutive terms of
 9 office of the state's attorney.

10 Beginning on January 1, 2010, and each year thereafter, the minimum salary payable for
 11 each position specified in this section shall be increased by three percent or by the annual
 12 percentage change in the consumer price index for urban wage earners and clerical workers as
 13 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
 14 year before the year immediately preceding the year of adjustment, whichever is less.

15 Section 7. That § 7-12-15 be amended to read as follows:

16 7-12-15. The board of county commissioners shall establish, by resolution, the salary
 17 payable to the sheriff. The salary payable may not be less than the following schedule based
 18 upon the most recent decennial federal census of population of counties.

19	County Population	Salary Schedule
20	Below 10,000	\$31,299 <u>\$33,700</u>
21	10,000-14,999	\$33,917 <u>\$36,300</u>
22	15,000-24,999	\$35,017 <u>\$37,451</u>
23	25,000-69,999	\$39,217 <u>\$41,943</u>
24	70,000 and over	\$42,590 <u>\$45,550</u>

25 The board of county commissioners may not decrease the salary of the sheriff during

1 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a
2 full-time jail shall receive an additional ten percent added to the base salary listed in this section.

3 Section 8. That § 7-12-15 be amended to read as follows:

4 7-12-15. The board of county commissioners shall establish, by resolution, the salary
5 payable to the sheriff. The salary payable may not be less than the following schedule based
6 upon the most recent decennial federal census of population of counties.

7	County Population	Salary Schedule
8	Below 10,000	\$31,299 <u>\$35,700</u>
9	10,000-14,999	\$33,917 <u>\$38,700</u>
10	15,000-24,999	\$35,017 <u>\$39,900</u>
11	25,000-69,999	\$39,217 <u>\$44,700</u>
12	70,000 and over	\$42,590 <u>\$48,600</u>

13 The board of county commissioners may not decrease the salary of the sheriff during
14 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a
15 full-time jail shall receive an additional ten percent added to the base salary ~~listed~~ provided for
16 in this section.

17 Beginning on January 1, 2010, and each year thereafter, the minimum salary payable for
18 each position specified in this section shall be increased by three percent or by the annual
19 percentage change in the consumer price index for urban wage earners and clerical workers as
20 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
21 year before the year immediately preceding the year of adjustment, whichever is less.

22 Section 9. Sections 1, 3, 5, and 7 of this Act are effective on January 1, 2008. Sections 2,
23 4, 6, and 8 of this Act are effective on January 1, 2009.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

556N0050

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 142 - 02/05/2007

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

Introduced by: Senators Katus, Apa, Hanson (Gary), Jerstad, Kloucek, Koetzle, and Napoli
and Representatives Van Norman, Boomgarden, Elliott, Kirkeby, Lucas,
Moore, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to provide for collection of certain workers' compensation
2 by court order.

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

4 Section 1. That § 62-7-31 be amended to read as follows:

5 62-7-31. Any party in interest may, after expiration of the time for a petition for review or
6 appeal, present a memorandum of agreement, approved by the department, or a certified copy
7 of any portion of an order or decision of the department; from which no petition for review or
8 appeal has been filed, together with all papers in connection with the case, to the circuit court
9 for the county in which the injury occurred ~~whereupon~~. Thereupon the court shall render a
10 judgment in accordance ~~therewith and~~ with the memorandum of agreement or portion of any
11 order or decision of the department from which no petition for review has been filed, and the
12 court shall notify the parties. ~~Such~~The judgment shall have the same effect and in all
13 proceedings in relation thereto be the same as though rendered in an action duly heard and
14 determined by the court except that ~~there shall be no appeal therefrom~~ may be made on



1 questions of fact.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

717N0747

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 190** - 02/05/2007

Introduced by: Senator McCracken and Representative Dykstra

1 FOR AN ACT ENTITLED, An Act to provide for the establishment of special development
2 districts and to authorize the issuance of certain restricted alcoholic beverage licenses in
3 such districts.

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

5 Section 1. Terms as used in this Act mean:

6 (1) "Alcoholic beverage license," an on-sale license issued pursuant to subdivision 35-4-
7 2(4);

8 (2) "District," any special development district created pursuant to this Act;

9 (3) "Record owner," the fee owner of real property as shown in the records of the office
10 of the register of deeds in the county in which the business area is located. A contract
11 purchaser of real property is the record owner for the purpose of this Act.

12 Section 2. A district may only be created as provided by the provisions of this Act. The
13 district shall include a contiguous area within the boundaries of the municipality zoned for
14 business, public, or commercial purposes. The area shall, at a minimum, include one acre of
15 land for each one thousand of population. However, in no case may the district contain less than



1 five acres. For a municipality with a population of twenty-five thousand or more, the minimum
2 size of the district shall be twenty-five acres. Each record owner within the proposed district
3 shall consent in writing to the creation of the district.

4 Section 3. The governing body of the municipality shall, by resolution, designate the
5 boundaries of the district and hold a hearing before the district is established. The fee charged
6 by the municipality for the alcoholic beverage licenses shall be the same as other alcoholic
7 beverage licenses issued by the municipality pursuant to subdivision 35-4-2(4). The governing
8 body may only create more than one district in the municipality if each district that is established
9 has a minimum size as provided in section 2 of this Act.

10 Section 4. Notwithstanding the provisions of § 35-4-11, any municipality may issue on-sale
11 licenses within a district created pursuant to this Act, subject to the following conditions:

- 12 (1) The licensee has facilities for the preparation and serving of food for consumption
13 at the location where the license is held;
- 14 (2) The licensee derives more than fifty percent of the licensee's gross receipts from the
15 sale of food or other goods and services other than alcoholic beverages at the location
16 where the license is held;
- 17 (3) No license may be transferred to a location outside the boundaries of the district in
18 which the license is issued;
- 19 (4) If the license is transferred to a new owner within the boundaries of the district, the
20 cost of transfer may not exceed the original fee charged by the municipality for the
21 license;
- 22 (5) No licensee may conduct video lottery upon the location where the license is held;
- 23 (6) The municipality may prohibit adult entertainment establishments within the district;
- 24 and

- 1 (7) The license may only be issued for a facility constructed after January 1, 2007, or for
- 2 the redevelopment of a blighted area as defined by chapter 11-9.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

285N0755

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 200 - 02/05/2007

Introduced by: Senators Jerstad, Abdallah, Bartling, Dempster, Garnos, Gray, Hanson (Gary), Hoerth, Hunhoff, Katus, Kloucek, Knudson, Koetzle, Maher, Peterson (Jim), and Sutton and Representatives Van Norman, Engels, Feinstein, Hackl, Hargens, Novstrup (Al), Olson (Ryan), Rausch, and Thompson

1 FOR AN ACT ENTITLED, An Act to prohibit the state and its political subdivisions from
2 releasing or posting social security numbers on the internet or any other media or domain
3 available to the public.

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

5 Section 1. No state agency or any of its political subdivisions or any official, agent, or
6 employee of any state agency or political subdivision may:

- 7 (1) Knowingly release or post any persons's social security number on the internet or any
8 other media or domain available to the general public; or
- 9 (2) Require any person to transmit the persons's social security number over the internet,
10 unless the connection is secure or the social security number is encrypted; or
- 11 (3) Require any person to use the person's social security number to access an internet
12 website, unless a password or unique personal identification number or other
13 authentication device is also required to access the internet website.

14 Section 2. As used in this Act, the terms, release, post, and transmit, mean to knowingly



1 communicate or otherwise make available to the general public.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

418N0639 SENATE JUDICIARY COMMITTEE ENGROSSED NO.
SB 202 - 02/05/2007

Introduced by: Senator Gray and Representative Lust

1 FOR AN ACT ENTITLED, An Act to increase the exemption from process of certain
2 retirement benefits.

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

4 Section 1. That § 43-45-16 be amended to read as follows:

5 43-45-16. Any person ~~shall have~~ has the right to select and designate a total of ~~two hundred~~
6 ~~fifty thousand~~ one million dollars and the income and distributions therefrom from the
7 employee's benefit plans as exempt from execution, attachment, garnishment, seizure, or taking
8 by any legal process. This exemption is subject to the right of the State of South Dakota and its
9 political subdivisions to collect any amounts owed to them. This section permits benefits under
10 such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent
11 of a participant in such plan to the extent expressly provided for in a qualified domestic relations
12 order as defined in 29 U.S.C. § 1056(d) or in § 401(a)(13) of the Internal Revenue Code.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

893N0779

SENATE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 209** - 02/05/2007

Introduced by: Senators Maher, Hoerth, Kloucek, Koetzle, and Nesselhuf and
Representatives Van Norman, Ahlers, Bradford, Elliott, Halverson, Hargens,
Lucas, Miles, Sigdestad, Street, and Thompson

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Boxing Commission and to
2 provide for the supervision of boxing, kickboxing, mixed martial arts, wrestling, and
3 sparring exhibitions in the state.

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

5 Section 1. There is hereby created the South Dakota Boxing Commission consisting of five
6 members appointed by the Governor. Not all of the members may be of the same political party.
7 The initial members to be appointed shall draw lots to determine who will hold the two three-
8 year terms, the two two-year terms, and the one one-year term. Thereafter, each member shall
9 serve terms of three years, but no member may serve more than three consecutive terms.

10 Section 2. The commission shall supervise all boxing, kickboxing, mixed martial arts,
11 wrestling, and sparring exhibitions held in the state and shall promulgate rules pursuant to
12 chapter 1-26 to:

13 (1) Govern the conduct of boxing, kickboxing, mixed martial arts, wrestling, and
14 sparring exhibitions;



1 (2) Establish license fees for all participants requiring licensure under federal or state
2 law; and

3 (3) Establish a fee based on the percentage of gross revenues from any boxing or
4 kickboxing competition or sparring exhibition held in the state to pay for the
5 expenses of the South Dakota Boxing Commission. However, no fee established
6 pursuant to this subdivision may exceed five percent of the gross revenues of the
7 competition or exhibition from any and all sources including cable television and
8 pay-per-view telecasts of the event, exclusive of any federal tax thereon.

9 Section 3. All fees collected pursuant to this Act shall be placed in the boxing commission
10 fund that is hereby established in the state treasury. All money deposited in the fund is
11 continuously appropriated to pay for the administration of this Act and for the compensation and
12 expenses of members of the South Dakota Boxing Commission.

13 Section 4. Boxing or kickboxing competitions or sparring exhibitions held in any city in this
14 state shall be held in conformity to the ordinances of that city, in addition to the requirements
15 of this Act. No boxing, kickboxing, mixed martial arts, wrestling, or sparring exhibition may
16 be held in a city where such contests or exhibitions are prohibited by ordinance.

17 Section 5. All boxing or sparring exhibitions conducted and sanctioned by bona fide
18 educational institutions or by national amateur boxing, kickboxing, mixed martial arts, or
19 wrestling associations or their local affiliates are exempt from this Act.