

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

715P0165

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1237** - 2/12/2008

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

Introduced by: Representatives Cutler, Ahlers, Elliott, Feinstein, Glenski, McLaughlin, Miles, Novstrup (David), Pitts, Thompson, Van Etten, and Weems and Senators Hunhoff, Hansen (Tom), Hoerth, Jerstad, Knudson, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the prohibition of  
2 smoking in certain public places or places of employment.

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

4 Section 1. That § 22-36-2 be amended to read as follows:

5 22-36-2. No person may smoke tobacco or carry any lighted tobacco product in any public  
6 place or place of employment. This section does not apply to ~~any sleeping room in a lodging~~  
7 ~~establishment as defined in § 34-18-1, to any on-sale licensee pursuant to chapter 35-4, to any~~  
8 ~~video lottery licensed establishment pursuant to chapter 42-7A, to any licensee pursuant to~~  
9 ~~chapter 42-7B, or to any tobacco or packaged liquor store if the store is primarily used for the~~  
10 sale of tobacco ~~or alcoholic beverages, or both,~~ and the sale of other products is merely  
11 incidental.

12 ~~A violation of this section is a petty offense.~~ Any owner or employee of a public place or  
13 place of employment who knowingly allows smoking in a public place or place of employment



1 is guilty of a Class 2 misdemeanor. Any person who smokes in a public place or place of  
2 employment is guilty of a Class 2 misdemeanor.

3 Section 2. That § 22-36-3 be amended to read as follows:

4 22-36-3. For the purposes of §§ 22-36-2 to 22-36-4, inclusive, a public place is any enclosed  
5 indoor area to which the public is invited or to which the public is permitted, ~~including any~~  
6 ~~hospital or medical or dental clinic; any nursing facility; any public library, museum, theater,~~  
7 ~~or concert hall; any elementary or secondary school building; any public conveyance; any jury~~  
8 ~~room; any elevator; any reception area; any restaurant; any retail service establishment; any~~  
9 ~~retail store; and any registered or unregistered day care program, day care center, day care~~  
10 ~~cooperative, or family day care home governed by chapter 26-6 during the time in which~~  
11 ~~children who are not family members of the day care provider are receiving care.~~ A private  
12 residence is not a public place unless it is used for day care.