

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

661W0085

HOUSE BILL NO. 1105

Introduced by: Representatives Hawley, Anderson, Kirschman, Otten (Herman), Rounds, and Willadsen and Senators Brown, Lederman, and Sutton

1 FOR AN ACT ENTITLED, An Act to provide for an affidavit creating a rebuttable presumption
2 that a person is not an employee for purposes of workers' compensation and to provide a
3 penalty therefor.

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

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

7 Any person who is considered to be an independent contractor and is not otherwise covered
8 under a workers' compensation insurance policy may sign an affidavit of exempt status under
9 the South Dakota Workers' Compensation Law. An affidavit of exempt status creates a
10 rebuttable presumption that the affiant is not an employee for the purposes of the South Dakota
11 Workers' Compensation Act and the person possessing the affidavit is not responsible for a
12 workers' compensation claim made by the affiant.

13 Section 2. That chapter 62-1 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The affidavit must be on a form prescribed by the director of the Division of Insurance and



1 must be notarized. The director of the Division of Insurance may promulgate rules pursuant to
2 chapter 1-26 to provide definitions, the form and process for filing the affidavit, and
3 documentation required for filing an affidavit of exemption from the South Dakota Workers'
4 Compensation Law.

5 Section 3. That chapter 62-1 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any person who knowingly provides false information on an affidavit of exempt status
8 under the South Dakota Workers' Compensation Law is guilty of a Class 2 misdemeanor.