

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

554D0459

HOUSE BILL NO. 1110

Introduced by: Representatives Hunt, Brooks, Cutler, Lucas, Smidt, and Volesky and Senators Bogue, Everist, Halverson, and Moore

1 FOR AN ACT ENTITLED, An Act to prohibit the use of the internet for certain gambling
2 activities.

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

4 Section 1. For the purposes of this Act, the term, bet or wager, means to directly or indirectly
5 take, receive, or accept money or any valuable thing with the understanding or agreement that
6 the money or valuable thing will be paid or delivered to a person if the payment or delivery is
7 contingent upon the result of a race, contest, or game or upon the happening of an event not
8 known to be certain. Bet or wager does not include the purchase, sale, or trade of securities or
9 commodities under state or federal law.

10 Section 2. For the purposes of this Act, the term, gambling business, means a business that
11 is conducted at a gambling establishment or involves the placing, receiving, or making of bets
12 or wagers or offers to engage in the placing, receiving, or making of bets or wagers.

13 Section 3. For the purposes of this Act, the term, internet, means the international computer
14 network of both federal and nonfederal interoperable packet switched data networks.

15 Section 4. For the purposes of this Act, the term, interactive computer service, means a
16 service, system, or network or access software provider that uses public communication

1 infrastructure or operates to provide or enable computer access by multiple users to a computer
2 server, including a service or system that provides access to the internet.

3 Section 5. For the purposes of this Act, the term, person, means an individual, association,
4 partnership, joint venture, corporation, or a director, executive, or officer of an association,
5 partnership, joint venture, or corporation, a political subdivision of this state, or a department,
6 agency, or instrumentality of this state, or any other government, organization, or entity,
7 including an Indian tribe.

8 Section 6. For the purposes of this Act, the term, state, means this state, including a territory,
9 possession, county, and land owned, occupied, or held in trust for an Indian tribe, whether or not
10 federally recognized as an Indian tribe.

11 Section 7. Except as provided in section 15 of this Act, no person engaged in a gambling
12 business may use the internet or an interactive computer service to bet or wager.

13 Section 8. Except as provided in section 15 of this Act, no person may establish a location
14 or site in this state from which to conduct a gambling business on or over the internet or an
15 interactive computer service.

16 Section 9. A violation of section 7 or 8 of this Act occurs if the violation originates or
17 terminates, or both, in this state. Each individual bet or wager offered in violation of section 7
18 of this Act or from a location or site that violates section 8 of this Act constitutes a separate
19 violation.

20 Section 10. Any person who violates section 7 or 8 of this Act is guilty of a felony as follows:

- 21 (1) For a first offense, a Class 6 felony;
- 22 (2) For a second or subsequent offense, a Class 5 felony.

23 Section 11. The attorney general or the state's attorney for the county in which a violation
24 under this Act occurred, may prosecute violations of this Act.

25 Section 12. The attorney general may notify a gambling business that its web site is illegal

1 in this state and list the penalties for violating this section.

2 Section 13. The attorney general or state's attorney may seek, and the court may enter, a
3 preliminary restraining order enjoining a person from transmitting bets or wagers or information
4 to assist in the placing of bets or wagers as a condition of bond pending trial or other disposition
5 of the case.

6 Section 14. If a person is found guilty or pleads guilty to a charge brought under this Act,
7 the attorney general or states attorney may seek, and the court may enter, a permanent injunction
8 against the person or gambling business enjoining the person or gambling business from
9 transmitting bets or wagers or information to assist in the placing of bets or wagers.

10 Section 15. This Act does not apply to the South Dakota Lottery and its licensees, who are
11 engaged in conduct in furtherance of activity expressly authorized, licensed, and regulated under
12 the provisions of chapter 42-7A or to the South Dakota Commission on Gaming and its
13 licensees, who are engaged in conduct in furtherance of activity expressly authorized, licensed,
14 and regulated under the provisions of chapters 42-7 and 42-7B.