Senate
Daily Reader

Wednesday, February 02, 2000

Bills Included				
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SB 175	SB 187			

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State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

285D0031

SENATE TAXATION COMMITTEE

ENGROSSED NO. SB10 - 1/19/00

Introduced by: Senators Vitter, Madden, and Symens and Representatives Sebert, Chicoine, Engbrecht, Lintz, Slaughter, and Sutton (Duane) at the request of the Interim Tax Assessment Committee

FOR AN ACT ENTITLED, An Act to create a classification for owner-operated commercial business property and to establish a maximum property tax levy on owner-operated commercial business property for the general fund tax levy of a school district.

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

Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as follows:

Each owner-operated commercial business in this state is specifically classified for the purpose of taxation. An owner-operated commercial business is a business owned by any person who is actively operating the business as the owner's primary economic activity for which such classification is requested pursuant to section 2 of this Act. Primary economic activity means that at least thirty-three and one-third percent of the total family gross income of the owner is derived from the operation of such business. The owner shall annually submit to the register of deeds a signed copy of the owner's individual tax return or a statement by a certified public accountant stating that the owner meets the income requirements provided in this section. For the purposes of this section, an owner-operated commercial business is any building, structure, or land, which

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is assessed and taxed as a separate unit, as recorded in the records of the director of equalization. A person may only have one business location on a statewide basis classified as an owner-operated commercial business. If the owner operates the business in less than one hundred percent of the space within the building or structure, the portion of the building or structure so occupied by the owner shall be classified as an owner-operated commercial business.

Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as follows:

To be eligible for a property tax classification pursuant to section 1 of this Act, the owner of each business shall submit a certificate to the county director of equalization stating such person is the owner of the property on the legal assessment date. The owner shall submit the certificate by March fifteenth. If the director of equalization classifies the property as an owner-operated commercial business, the property shall retain this classification until such time the owner's eligibility for this classification changes. The owner shall notify the director of equalization if a change in eligibility for this classification occurs. The owner shall sign the certificate under penalty of perjury. The Department of Revenue shall prescribe the form of the certificate.

Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as follows:

Any person who receives an owner-operated commercial business classification by misrepresenting the facts as to the person's ownership or eligibility for such classification shall be assessed a penalty equal to ten dollars per thousand dollars of valuation on the property, which assessment shall become a perpetual lien on the property pursuant to § 10-21-33. The person shall be barred from receiving the owner-operated commercial business classification for any property in the state for the following five years.

Section 4. That § 10-12-42 be amended to read as follows:

10-12-42. For taxes payable in 2000 and each year thereafter, the levy for the general fund of a school district shall be as follows:

(1) The maximum tax levy shall be sixteen dollars and fifteen cents per thousand dollars of taxable valuation subject to the limitations on agricultural property as provided in subdivision (2) of this section, owner-occupied property as provided for in subdivision (3) of this section, ~~and~~ nonagricultural acreage property as provided for in subdivision (4) of this section, and owner-operated commercial business property as provided for in subdivision (5) of this section;

(2) The maximum tax levy on agricultural property for such school district shall be four dollars and seventy cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in ~~chapter 10-13~~ this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies;

(3) The maximum tax levy for an owner-occupied single-family dwelling as defined in § 10-13-40, for such school district may not exceed seven dollars and fifty-six cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in ~~chapter 10-13~~ this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies;

(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-33.14, for such school district shall be five dollars and seventy cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in ~~chapter 10-13~~ this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies; and

(5) The maximum tax levy for an owner-operated commercial business property as defined in section 1 of this Act, for such school district shall be ten dollars per thousand dollars of the property's taxable valuation of two hundred thousand dollars or less and sixteen dollars and fifteen cents per thousand dollars of the property's taxable valuation in excess of two hundred thousand dollars. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies.

All levies in this section shall be imposed on valuations where the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue. These valuations shall be used for all school funding purposes. If the district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies in this section. The school district may elect to tax at less than the maximum amounts set forth in this section.

Section 5. This Act is effective on January 1, 2001.

BILL HISTORY

1/11/00 First read in Senate and referred to Taxation. S.J. 15

1/19/00 Scheduled for Committee hearing on this date.

1/19/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 2.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0351

SENATE EDUCATION COMMITTEE

ENGROSSED NO. SB28 - 1/28/00

Introduced by: The Committee on Education at the request of the Department of Social Services

FOR AN ACT ENTITLED, An Act to provide payment of tuition costs to education programs for students in governmental custody and to eliminate certain payments to educational programs operated by public school districts.

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

Section 1. That § 13-28-39 be amended to read as follows:

13-28-39. The Department of Social Services shall pay tuition costs and related service costs for students in residential treatment centers or group care centers for minors ~~who~~ when the educational program is not operated by a public school district and the students are under the care and custody of the Department of Social Services, the ~~Unified Judicial System~~ Department of Corrections, or other entities approved by the secretary of the Department of Social Services. For students with disabilities residing in a foster home, the Department of Social Services shall pay for special education or special education and related services. Students residing in foster homes must be in the care and custody of the Department of Social Services, the ~~Unified Judicial System~~ Department of Corrections, or other entities approved by the secretary of the Department of Social Services. The Department of Social Services ~~will have rate setting authority~~ may set rates for tuition costs and related service costs.

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The secretary of the Department of Social Services may promulgate rules, pursuant to chapter 1-26, pertaining to:

(1) The amount, scope, and duration of services;

(2) The basis for and extent of provider payments;

(3) The method and amount of payment;

(4) The methods of recoupment or recovery of overpayments;

(5) Administration, record keeping, and audit requirements;

(6) Compliance monitoring;

(7) Reporting requirement; <u>and</u>

(8) Such other standards and requirements as may be necessary to ensure the efficient operation and administration of the program.

BILL HISTORY

1/11/00 First read in Senate and referred to Education. S.J. 19

1/13/00 Scheduled for Committee hearing on this date.

1/18/00 Scheduled for Committee hearing on this date.

1/18/00 Education Do Pass, Passed, AYES 4, NAYS 2. S.J. 68

1/18/00 Referred to Education. S.J. 69

1/20/00 Scheduled for Committee hearing on this date.

1/27/00 Scheduled for Committee hearing on this date.

1/27/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 219

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

391D0180

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. SB83 - 2/1/00

Introduced by: Senators Hainje, Albers, Brown (Arnold), Daugaard, Dennert, Drake, Dunn (Rebecca), Duxbury, Everist, Frederick, Kleven, and Symens and Representatives Fiegen, Cutler, Davis, Duniphan, Fischer-Clemens, Hennies, Koetzle, Lintz, Michels, Patterson, Roe, Waltman, and Young

FOR AN ACT ENTITLED, An Act to provide immunity from civil and criminal liability for the placement and use of automated external defibrillators.

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

Section 1. Terms used in this Act mean:

(1) "AED," an automated external defibrillator;

(2) "Person," a natural person, organization, corporation, partnership, limited partnership, joint venture, association, or any other legal or commercial entity;

(3) "Physician," a physician licensed pursuant to chapter 36-4.

Section 2. Any person, who in good faith obtains an AED for use in providing emergency care or treatment, is immune from civil liability for any injury as a result of such emergency care or treatment or as a result of an act or failure to act in providing or arranging such medical treatment. This immunity applies only if the following requirements are fulfilled:

(1) The person tests and maintains the AED, or arranges to have such testing and maintenance performed on the AED pursuant to the AED manufacturer's specifications;

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(2) The person involves a physician to authorize in writing AED placement and compliance with the requirements for AED training, notification of placement and use, and maintenance;

(3) An emergency medical services system is activated when an AED has been used to render emergency care or treatment; and

(4) The person has reported any emergency use of the AED to the physician.

Section 3. Any physician who provides those services stated in subdivision (2) of section 2 of this Act is immune from civil liability for any personal injury that occurs as a result of emergency care or treatment rendered using the AED or as a result of an act or failure to act in providing or arranging such medical treatment.

Section 4. Any person who provides AED training is immune from civil liability for any personal injury that occurs as a result of emergency care or treatment rendered using the AED or as a result of an act or failure to act in providing or arranging such medical treatment.

Section 5. Any person who acquires an AED shall notify an agent of the emergency communications or vehicle dispatch center of the existence, location, and type of AED.

Section 6. The immunity from civil liability under this Act does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering such emergency care.

BILL HISTORY

1/18/00 First read in Senate and referred to Judiciary. S.J. 71

1/28/00 Scheduled for Committee hearing on this date.

1/28/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 253

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

385D0176

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. SB110 - 2/1/00

Introduced by: Senators Hutmacher and Flowers and Representatives Cerny and Nachtigal

FOR AN ACT ENTITLED, An Act to prohibit the placement of certain hazardous or injurious devices on state lands and to provide penalties therefor.

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

Section 1. No person may, with the intent to cause bodily injury to another person, use or place a hazardous or injurious device on any land owned or leased by the State of South Dakota, including any highway, road, or right-of-way. A violation of this section is a Class 1 misdemeanor.

Section 2. For the purposes of this Act, a hazardous or injurious device is any device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. The term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails, or other such devices placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the

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stump. However, the term does not include puncture strips placed by law enforcement officers in an immediate attempt to stop a fleeing vehicle.

BILL HISTORY

1/19/00 First read in Senate and referred to Judiciary. S.J. 113

1/21/00 Scheduled for Committee hearing on this date.

1/21/00 Judiciary Deferred to another day.

1/28/00 Scheduled for Committee hearing on this date.

1/28/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

670D0431

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. SB117 - 2/1/00

Introduced by: Senators Staggers, Dennert, Flowers, Lange, Moore, Olson, and Symens and Representatives Monroe, Diedtrich (Elmer), Fischer-Clemens, Garnos, Klaudt, Slaughter, and Sutton (Duane)

FOR AN ACT ENTITLED, An Act to prohibit strip-searches for violations of curfew.

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

Section 1. No person under the age of eighteen detained solely for a curfew violation may be strip-searched.

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BILL HISTORY

1/19/00 First read in Senate and referred to Judiciary. S.J. 114

1/21/00 Scheduled for Committee hearing on this date.

1/21/00 Judiciary Deferred to another day.

1/28/00 Scheduled for Committee hearing on this date.

1/31/00 Scheduled for Committee hearing on this date.

1/31/00 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 262

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

228D0674

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. SB175 - 2/1/00

Introduced by: Senators Hutmacher, Bogue, Duxbury, Flowers, Lange, Moore, and Vitter and Representatives Nachtigal, Apa, Davis, Hanson, Kooistra, Sutton (Daniel), Volesky, and Weber

FOR AN ACT ENTITLED, An Act to establish the Division of Antitrust Enforcement within the Office of the Attorney General, to provide for investigation and enforcement, and to amend investigation confidentiality requirements to allow state and federal officials access.

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

Section 1. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby established within the Office of the Attorney General the Division of Antitrust Enforcement. The attorney general shall appoint the director of the division. The division is subordinate to the attorney general and shall carry out orders and directives issued by the attorney general.

Section 2. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as follows:

The Division of Antitrust Enforcement is authorized to investigate potential antitrust violations and unfair business practices, and where authorized by law, bring enforcement actions. The division shall place special emphasis on potential antitrust violations and unfair business

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practices in the agricultural sector.

Section 3. That § 40-15B-6 be amended to read as follows:

40-15B-6. The attorney general shall enforce the provisions of §§ 40-15B-1 to 40-15B-8, inclusive, and the Department of Agriculture shall refer any violations of these provisions to the attorney general. ~~The attorney general or any person injured by a violation of these provisions may bring an action in circuit court to restrain a packer from violating these provisions. A seller who receives a discriminatory price or who is offered only a discriminatory price for livestock based upon a violation of these provisions by a packer has a civil cause of action against the packer and, if successful, shall be awarded treble damages.~~ The provisions of §§ 37-1-11.1 to 37-1-14.4, inclusive, are applicable to investigations authorized under this section.

Section 4. That § 37-1-11.3 be amended to read as follows:

37-1-11.3. Any procedure, testimony taken, or material produced under §§ 37-1-11.1 and 37-1-11.2 shall be kept confidential by the attorney general before bringing an action, and during the action, against a person under this chapter for the violation under investigation, unless confidentiality is waived in writing by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court. However, nothing prevents the attorney general from providing any testimony taken or material produced to other state or federal officials who are charged with antitrust enforcement and agree to abide by the provisions of this section or comparable provisions of state and federal law.

BILL HISTORY

1/24/00 First read in Senate and referred to Judiciary. S.J. 165

1/28/00 Scheduled for Committee hearing on this date.

1/28/00 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 2. S.J. 252

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0748

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. SB187 - 2/1/00

Introduced by: Senator Albers

FOR AN ACT ENTITLED, An Act to provide for the revocation or refusal of a gaming or racing license.

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

Section 1. Notwithstanding §§ 23A-27-14 and 23A-27-17, a person who has received an order pursuant to § 23A-27-13 for a felony offense, who is licensed or seeks to be licensed by the South Dakota Commission on Gaming pursuant to § 42-7B-22 or subdivision 42-7-56(12), shall have an application refused or a license revoked after a hearing as provided pursuant to chapter 1-26 unless the person has successfully completed the probationary period imposed by the court.

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BILL HISTORY

1/24/00 First read in Senate and referred to State Affairs. S.J. 167

1/28/00 Scheduled for Committee hearing on this date.

1/28/00 State Affairs Deferred to another day.

1/31/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 251