

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0247

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 36 - 01/18/2002

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to impose a sales and use tax on mobile telecommunications
2 services and to implement the federal uniform and simplified sourcing rules for mobile
3 telecommunications services.

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

5 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 There is hereby imposed a tax of four percent upon the gross receipts of mobile
8 telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that
9 originate and terminate in the same state and are billed to a customer with a place of primary use
10 in this state. Notwithstanding any other provision of this chapter and for purposes of the tax
11 imposed by this section, the tax imposed upon mobile telecommunication services shall be
12 administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

13 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 There is hereby imposed a tax of four percent upon the privilege of the use of mobile



1 telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that
2 originate and terminate in the same state and are billed to a customer with a place of primary use
3 in this state. Notwithstanding any other provision of this chapter and for purposes of the tax
4 imposed by this section, the tax imposed upon mobile telecommunication services shall be
5 administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

6 Section 3. That subdivision (7) of § 34-45-1 be amended to read as follows:

7 (7) "911 emergency surcharge," any charge set by the governing body and assessed on
8 each local exchange access line which physically terminates within the governing
9 body's designated 911 service area. For a mobile telecommunications service, any
10 charge set by the governing body and assessed per cellular telephone identified within
11 the governing body's designated 911 service area as determined by the customer's
12 place of primary use as defined in 4 U.S.C. § 124 as in effect on July 28, 2000.
13 Notwithstanding any other provision of this chapter and for purposes of the surcharge
14 imposed by this chapter, the surcharge imposed upon mobile telecommunication
15 services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on
16 July 28, 2000;

17 Section 4. That § 49-31-51 be amended to read as follows:

18 49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service
19 line per month, fifteen cents per cellular telephone per month in accordance with the provisions
20 provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay
21 for the program established in § 49-31-47. The access fee shall be paid by each local exchange
22 subscriber to a local exchange service, or by each cellular telephone or radio pager service
23 subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The
24 access fee shall be reported as a separate line or service and collected on the regular monthly bill

1 by each local exchange telecommunications company or other service provider operating in this
2 state. On or before the last day of the month following each two-month period, every
3 telecommunications company providing local exchange service or other service provided
4 specified in this section shall remit to the Department of Revenue on forms furnished by the
5 department the amount of the access fee collected for that two-month period. The secretary of
6 revenue may grant an extension of not more than five days for filing a remittance. The
7 Department of Revenue shall deposit ninety percent of the money received under §§ 49-31-47
8 to 49-31-56, inclusive, into the telecommunication fund for the deaf and ten percent in the
9 telecommunication fund for other disabilities.

10 Section 5. That § 10-45-6.1 be amended to read as follows:

11 10-45-6.1. ~~There~~ Except as provided in section 1 of this Act, there is hereby imposed on
12 amounts paid for local telephone services, toll telephone services, and teletypewriter services,
13 a tax of four percent of the amount so paid. The taxes imposed by this section shall be paid by
14 the person paying for the services. If a bill is rendered the taxpayer for local telephone service
15 or toll telephone service, the amount on which the tax with respect to such services shall be
16 based shall be the sum of all charges for such services included in the bill; except that if a person
17 who renders the bill groups individual items for purposes of rendering the bill and computing the
18 tax, then the amount on which the tax for each such group shall be based shall be the sum of all
19 items within that group, and the tax on the remaining items not included in any such group shall
20 be based on the charge for each item separately. If the tax imposed by this section with respect
21 to toll telephone service is paid by inserting coins in coin operated telephones, the tax shall be
22 computed to the nearest multiple of five cents, except that, where the tax is midway between
23 multiples of five cents, the next higher multiple shall apply. The tax so paid shall be remitted at
24 the same time as the sales tax imposed by this chapter.

1 Section 6. The provisions of this Act apply to any customer bill issued on or after August 1,
2 2002.