

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

906I0497

## HOUSE BILL NO. 1157

Introduced by: Representatives Teupel, Adelstein, Hennies, Konold, Madsen, McCoy, Pederson (Gordon), Solum, and Van Etten and Senators Olson (Ed), Duniphan, Ham, McCracken, Schoenbeck, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the application of the gross receipts tax on visitor  
2 related businesses.

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

4 Section 1. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read  
5 as follows:

6 "Restaurant," any establishment where the public is invited to eat, dine, or purchase and carry  
7 out prepared food for immediate consumption.

8 Section 2. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read  
9 as follows:

10 "Visitor intensive restaurant," any restaurant except any restaurant that does not derive fifty  
11 percent or more of its annual total gross receipts during the months of May, June, July, August,  
12 September, and October and has less than fifty-one seats based on the inspection records and  
13 license issued by the Department of Health. No restaurant or licensed food service that is  
14 operated in a grocery store; food market; bowling alley; movie theater; retail bakery; livestock  
15 auction; employee commissary and cafeterias; hospital; school food service, stadium, or gym;



1 college food service, stadium, or gym; military, service, or benevolent club; and municipal,  
2 county, state, or tribal food service facility is, however, included.

3 Section 3. That chapter 10-45D be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 There is hereby imposed a tax of one percent on the gross receipts from the sale of prepared  
6 food and nonalcoholic beverages by any visitor intensive restaurant. Any sale of alcoholic  
7 beverages, service, or parking by a visitor intensive restaurant is exempt from the tax imposed  
8 by this section. The tax imposed by this section on the gross receipts of any visitor-intensive  
9 restaurant shall apply to the gross receipts received by such restaurant during the months of May,  
10 June, July, August, September, and October.

11 Section 4. That § 10-45D-2 be amended to read as follows:

12 10-45D-2. There is hereby imposed a tax of one percent on the gross receipts from any  
13 lodging establishment, campground, motor vehicle rental, visitor attraction, recreational  
14 equipment rental, recreational service, spectator event, and visitor-intensive business. The tax  
15 imposed by this section on the gross receipts of any visitor-intensive business shall apply to the  
16 gross receipts received by such business during the months of May, June, July, August, and  
17 September, and October. The tax imposed by this section is in addition to any other tax imposed  
18 by chapters 10-45 and 10-46. Tangible personal property, services, and admissions are subject  
19 to the tax imposed by this section only if subject to tax by chapters 10-45 and 10-46.

20 Section 5. That § 10-45D-3 be amended to read as follows:

21 10-45D-3. The revenue from the tax imposed by § 10-45D-2 shall be deposited in the  
22 tourism promotion fund created in § 1-42-31. Fifty percent of the revenue collected from tax  
23 imposed by section 3 of this Act on restaurants shall be disbursed by the Department of Tourism  
24 to the four officially recognized geographic tourism regions in South Dakota. The four regions

1 are southeast South Dakota tourism region, the glacial lakes and prairies tourism region, the  
2 great lakes of South Dakota tourism region, and the Black Hills Badlands and lakes tourism  
3 region. The disbursement to each region shall be in proportion to the amount of such tax revenue  
4 generated by restaurants within each respective tourism region. The Department of Tourism shall  
5 ensure that all disbursements to the regions are used exclusively for regional tourism marketing.  
6 The Department of Tourism shall promulgate rules, pursuant to chapter 1-26, to ensure the  
7 expenditure of funds are in compliance with this section.