

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

168I0660

HOUSE BILL NO. 1248

Introduced by: Representatives McCoy and Miles and Senators Kooistra and Koetzle

1 FOR AN ACT ENTITLED, An Act to exempt certain low income individuals from sales tax on
2 food.

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

4 Section 1. There are hereby exempted from the provisions of chapter 10-45 and from the
5 computation of the amount of tax imposed by it, the gross receipts resulting from authorized
6 purchases of food by any low income household pursuant to this Act. For purposes of
7 determining a low income household for this Act, the Department of Social Services shall use
8 federal poverty level established in 67 Fed. Reg. 6,931 as of January 1, 2003, and multiply that
9 figure by two hundred percent. If the household income is below that level, the department shall
10 issue an exemption card to the household indicating that the purchaser is exempt from taxation
11 on food. Any food purchased by any member of an eligible low income household shall be for
12 consumption by such household. The exemption card shall have an identification number that is
13 recorded by the seller and records shall be kept on the dollar amount of food purchases by each
14 exemption card holder.

15 Section 2. Terms used in this Act mean:

16 (1) "Assistance," includes a classification that the household is low income and exempt



1 from sales tax on food;

2 (2) "Department," the Department of Social Services;

3 (3) "Exemption card," a card issued by the department to a household pursuant to this
4 Act. The exemption card shall have an identification number encoded into the card;

5 (4) "Food," any good or item as defined by the Food Stamp Act of 1977 (P.L. 95-113),
6 codified at 7 U.S.C. § 2012(g), as amended through January 1, 2003;

7 (5) "Purchaser," any member of the household utilizing the exemption card at a retailer
8 to purchase food pursuant to this Act.

9 Section 3. The department shall promulgate rules, pursuant to chapter 1-26, regarding:

10 (1) Assistance eligibility qualifications and application procedure;

11 (2) Conditions of continued eligibility, eligibility time limits, eligibility recertification
12 periods, and exemptions;

13 (3) Program participation requirements and criteria for disqualification;

14 (4) Disqualification for intentional program violation or failure to comply with program
15 requirements;

16 (5) Development of applications, reports, and other forms;

17 (6) Enforcement of child support obligations including distribution of collections,
18 cooperative agreements with courts and law enforcement officials; and

19 (7) Collection, audit, and reporting of facts and statistics relating to the assistance.

20 Section 4. Application shall be made in a manner prescribed by the department. The
21 department shall promptly notify the applicant of its decision.

22 Section 5. An applicant or recipient whose application is denied or not acted upon or who
23 is aggrieved by any action affecting receipt, suspension, reduction, or termination of assistance
24 may appeal the action or inaction as provided in chapter 1-26.

1 Section 6. No applicant or recipient of assistance under this Act may:

- 2 (1) Intentionally make or cause to be made any false statement or misrepresentation in
3 any application, report, or other communication with the department; or
4 (2) Having knowledge of any event or circumstance affecting the initial or continued
5 eligibility for assistance, intentionally conceal or fail to disclose that event or
6 circumstance for the purpose of obtaining assistance.

7 The department may deny or terminate assistance to any person or household who has
8 violated this Act for such period as may be reasonable or necessary to deter fraud or program
9 abuse.

10 Section 7. The department may adopt, pursuant to chapter 1-26, necessary and reasonable
11 policies and procedures to recover or recoup any unpaid sales tax that resulted from fraud or
12 misrepresentation, erroneous determination of eligibility or amount of assistance, or otherwise.

13 Section 8. Assistance implemented under this Act is subject to the provisions of any
14 amending or repealing act that may hereafter be enacted. No applicant or recipient of assistance
15 under this Act has any claim for compensation or otherwise by reason of the effect of any such
16 amending or repealing act.

17 Section 9. This Act is effective on January 1, 2006.