

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

177I0710

## HOUSE BILL NO. 1250

Introduced by: Representatives Gassman, Bradford, Lange, and Peterson (Jim) and Senators Kloucek and Kooistra

1 FOR AN ACT ENTITLED, An Act to exempt auctioneer fees and commissions from sales tax.  
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

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

5 Any fee or commission received by an auctioneer for auctioning tangible personal property  
6 of a client does not constitute gross receipts subject to the tax imposed by chapter 10-45.

7 Section 2. That § 10-45-92 be repealed.

8 ~~10-45-92. In determining the amount of tax due under this chapter, auctioneers may deduct~~  
9 ~~from gross receipts amounts which represent direct expense charges for clients for tangible~~  
10 ~~personal property or services purchased by the auctioneer on behalf of a client. However, the sale~~  
11 ~~of the property or service to the auctioneer is not a sale for resale if this deduction is taken. This~~  
12 ~~deduction may only be taken if the amount to be deducted represents an expense specifically~~  
13 ~~incurred for a particular client and the amount is itemized and paid from the client's auction~~  
14 ~~proceeds by the auctioneer or closing agent. The deduction shall be disallowed if the auctioneer~~  
15 ~~receives any profit or remuneration directly or indirectly from the client's expense.~~

