

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

177I0719

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1261** - 02/13/2003

Introduced by: Representatives Dykstra and Gillespie and Senator Albers

1 FOR AN ACT ENTITLED, An Act to restrict public corporations from making purchases from
2 any retailer that fails to collect and remit sales and use taxes.

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

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No public corporation may purchase any goods or services from any retailer that meets the
7 definition of a retailer or a retailer maintaining a place of business in the state, pursuant to
8 subdivisions 10-46-1(8) and (9), if the retailer or any affiliate of the retailer fails or refuses to
9 collect and remit the sales and use tax on any sale delivered by any means to a location within
10 this state. The Department of Revenue shall provide a list to public corporations of any retailer
11 that fails to collect and remit the sales and use tax. For the purposes of this section, the term,
12 affiliate, is any person who directly or indirectly owns or controls, is owned or controlled by, or
13 is under common ownership or control with, another person. No public corporation is liable for
14 the breach of any duty required of the public corporation by the provisions of this Act if the
15 breach, error, act, or omission is made in good faith. The provisions of this Act do not apply to



1 any emergency purchase made pursuant to § 5-18-3.1, or to any purchase made pursuant to § 5-
2 18-18.1, 5-18-18.2, or 5-18-9.4, or to any contract for the construction of a new building or the
3 remodeling or addition to an existing building or a contract for any other public improvement
4 which involves the expenditure of twenty-five thousand dollars or more made pursuant to § 5-
5 18-3.