

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

229J0277

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1177 - 01/29/2004

Introduced by: Representatives Kraus, Haverly, Hunhoff, McCaulley, Nesselhuf, Novstrup, O'Brien, Smidt, and Van Etten and Senators Dempster, Brown, Kelly, Knudson, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions prohibiting certain government
2 purchases and to declare an emergency.

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

4 Section 1. That § 5-18-2.1 be repealed.

5 ~~5-18-2.1. No public corporation may purchase any goods or services from any retailer that~~
6 ~~meets the definition of a retailer or a retailer maintaining a place of business in the state,~~
7 ~~pursuant to subdivisions 10-46-1(8) and (9), if the retailer or any affiliate of the retailer fails or~~
8 ~~refuses to collect and remit the sales and use tax on any sale delivered by any means to a~~
9 ~~location within this state. The Department of Revenue shall provide a list to public corporations~~
10 ~~of any retailer that fails to collect and remit the sales and use tax. For the purposes of this~~
11 ~~section, the term, affiliate, is any person who directly or indirectly owns or controls, is owned~~
12 ~~or controlled by, or is under common ownership or control with, another person. No public~~
13 ~~corporation is liable for the breach of any duty required of the public corporation by the~~
14 ~~provisions of this section if the breach, error, act, or omission is made in good faith. The~~



1 ~~provisions of this section do not apply to any emergency purchase made pursuant to § 5-18-3.1,~~
2 ~~or to any purchase made pursuant to § 5-18-18.1, 5-18-18.2, or 5-18-9.4, or to any contract for~~
3 ~~the construction of a new building or the remodeling or addition to an existing building or a~~
4 ~~contract for any other public improvement which involves the expenditure of twenty-five~~
5 ~~thousand dollars or more made pursuant to § 5-18-3.~~

6 Section 2. Whereas, this Act is necessary for the support of the state government and its
7 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
8 full force and effect from and after its passage and approval.