

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

645L0617

## HOUSE BILL NO. 1142

Introduced by: Representatives Sebert, Elliott, Frost, Fryslie, Jensen, Sigdestad, Van Etten, Vehle, and Willadsen and Senators Olson (Ed), Abdallah, and Knudson

1 FOR AN ACT ENTITLED, An Act to provide sales and use tax refunds to certain fabricators.

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

3 Section 1. A contractor or subcontractor licensed pursuant to chapter 10-46A or 10-46B may  
4 apply for a refund of South Dakota sales tax paid by such contractor if:

5 (1) The sales and use tax subject to the refund request was paid by the contractor or  
6 subcontractor requesting the refund for the use of tangible personal property;

7 (2) The tangible personal property upon which the sales and use tax was paid was  
8 purchased by the contractor or subcontractor requesting the refund;

9 (3) The tangible personal property upon which the sales and use tax was paid was  
10 fabricated by the contractor or subcontractor in South Dakota;

11 (4) The fabricated tangible personal property was used outside of South Dakota by the  
12 contractor or subcontractor in the performance of a contract;

13 (5) The fabricated tangible personal property is not returned to South Dakota; and

14 (6) The fabricated tangible personal property is exempt from sales or use tax in the state  
15 where the contract is performed.



1 Section 2. Any claim for refund shall be submitted on forms prescribed by the secretary of  
2 the Department of Revenue and Regulation and shall be supported by such documentation as  
3 the secretary may require. The secretary may deny any claim if the claimant has failed to provide  
4 the information or documentation requested or considered necessary by the secretary to  
5 determine the validity of the claim.

6 Section 3. Any person requesting a refund pursuant to this Act shall submit a request for a  
7 refund on a form provided by the Department of Revenue and Regulation. The request shall be  
8 submitted pursuant to § 10-59-19. No interest may be paid on the refund amount.

9 Section 4. If any claim has been fraudulently presented or supported as to any item in the  
10 claim, or if the claimant fails to meet all the conditions of section 1 of this Act, then the claim  
11 may be rejected in its entirety; and all sums previously refunded to the claimant constitutes a  
12 debt to the state and a lien in favor of the state upon all property and rights to property whether  
13 real or personal belonging to the claimant and may be recovered in an action of debt.

14 Section 5. Any person aggrieved by the denial in whole or in part of a refund claimed under  
15 this Act, may within thirty days after service of the notice of such denial by the secretary of the  
16 Department of Revenue and Regulation, demand and is entitled to a hearing, upon notice, before  
17 the secretary. The hearing shall be conducted pursuant to chapter 1-26.

18 Section 6. The secretary of the Department of Revenue and Regulation shall promulgate  
19 rules, pursuant to chapter 1-26, concerning the procedures for filing refund claims and the  
20 requirements necessary to qualify for a refund.