

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

246M0108 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. HB 1006 -
01/31/2006

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to out-of-state cattle
2 brands and to establish a penalty.

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

4 Section 1. That chapter 40-19 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may bring cattle branded with a brand registered in another state into the
7 ownership inspection area for grazing or feeding purposes without a permit authorized by the
8 board. If the brand is a duplicate of or conflicts with a brand issued pursuant to this chapter, a
9 permit may only be issued at the discretion of the board. No permit is required if the cattle are
10 rebranded with a brand registered pursuant to this chapter. The application for a permit shall be
11 on a form approved by the board and shall be signed by the owner of the cattle. Any calves born
12 to cattle which are subject to the permit may be branded with the out-of-state brand upon prior
13 written notice to the board. The calves shall be added to the permit. No cattle or calves subject
14 to the permit may be removed from the ownership inspection area, sold, or slaughtered without



1 an ownership inspection.

2 No person may brand any cattle imported into or purchased within the ownership inspection
3 area for feeding purposes with a brand registered in another state without a permit authorized
4 by the board. No permit may be issued if the brand is a duplicate of or conflicts with a brand
5 issued pursuant to this chapter. The application for a permit shall be signed by the owner of the
6 cattle. No cattle subject to the permit may be removed from the ownership inspection area, sold,
7 or slaughtered without an ownership inspection.

8 A violation of this section is a Class 1 misdemeanor.

9 Section 2. That § 40-19-10 be repealed.

10 ~~40-19-10. Any person before bringing into this state and turning loose for grazing purposes~~
11 ~~any livestock already branded, shall present to the board a statement of the brand on such~~
12 ~~livestock, and if in the judgment of the board, such brand is a duplicate of or in conflict with any~~
13 ~~previously registered brand, the board shall so notify the person bringing the livestock into this~~
14 ~~state. The board may require the owner of the livestock to rebrand the livestock with a~~
15 ~~nonconflicting brand prior to turning the livestock loose. A violation of this section is a Class~~
16 ~~1 misdemeanor.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

444M0099

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1069 - 02/02/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Dykstra and Rounds and Senators Napoli, Bartling, and Gray

- 1 FOR AN ACT ENTITLED, An Act to prohibit the public sale of tax certificates.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. Notwithstanding the provisions of chapters 10-23, 10-24, and 10-25, no county
- 4 may sell any tax certificate after July 1, 2006. The county shall be the holder of any tax
- 5 certificate issued by the county after July 1, 2006. The county treasurer shall continue to serve
- 6 notice on the owner of record of the real property, publish notice, and attend to the other
- 7 administrative provisions imposed by chapter 10-23, 10-24, and 10-25. Nothing in this section
- 8 affects the holder of any existing tax certificate, the method in which the tax certificate is
- 9 redeemed, or the sale of real property for taxes or assessments.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

780M0459

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1110 - 02/02/2006

Introduced by: Representatives Krebs, Boomgarden, Faehn, Frost, Garnos, Hargens, Haverly, Koistinen, Kroger, Miles, Peters, Sebert, and Willadsen and Senators Greenfield, Apa, Duniphan, Gray, Hansen (Tom), McCracken, Olson (Ed), Peterson (Jim), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to provide compensation to certain retailers for collecting
2 and remitting the sales tax.

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

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

6 Any person required to file a return and remit the tax imposed by this chapter on a monthly
7 basis and who timely files the return and pays the tax is allowed, as compensation for the
8 expense of collecting and paying the tax monthly, a credit equal to one and one-half percent of
9 the gross amount of the tax due. However, the credit may not exceed seventy dollars per month.

10 Section 2. This Act is effective on July 1, 2007.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

823M0453

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1141** -
02/01/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Murschel and Dennert and Senators Nesselhuf and Kooistra

1 FOR AN ACT ENTITLED, An Act to provide standards for interpreting for the deaf and hard-
2 of-hearing by requiring national interpreter certification and to repeal the state certification
3 process and replace it with registration.

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

5 Section 1. For the purposes of this Act, the term, interpreting, means the process of
6 providing accessible communication between and among persons who are deaf or hard-of-
7 hearing and those who are hearing. This process includes communication between American
8 Sign Language and English. Interpreting may involve various other modalities that involve
9 visual, gestural, and tactile methods.

10 Section 2. No person may do any of the following with respect to providing interpreting
11 services for any person who is deaf or hard-of-hearing for a fee or other remuneration unless
12 certified pursuant to sections 3 or 4 of this Act and registered with the Department of Human
13 Services:

14 (1) Engage in the practice of, or offer to engage in the practice of, interpreting;



1 (2) Use the title, interpreter, in connection with the person's name; or

2 (3) Use the title, interpreter, in advertisements or descriptions.

3 A violation of this section is a Class 2 misdemeanor.

4 Section 3. The department may issue provisional certification to a person who:

5 (1) Has graduated from a postsecondary degree program of two years or more accredited
6 in interpreter preparation or interpreter education;

7 (2) Participates in a department approved plan of up to five years in preparation for
8 national testing that includes continuing education units and mentoring; and

9 (3) Registers annually with the department.

10 Provisional certification may be granted for no more than five years.

11 Section 4. A person is certified if the person is at least one of the following:

12 (1) Certified by the Registry of Interpreters for the Deaf and in good standing;

13 (2) Certified by the National Association of the Deaf and in good standing;

14 (3) Certified by the Educational Interpreters Proficiency Assessment with a score of at
15 least 3.5 and in good standing; or

16 (4) Certified by the Department of Human Services prior to July 1, 2006, and in good
17 standing.

18 A person certified pursuant to subdivision (4) may continue this certification only so long
19 as the person completes one hundred twenty-five continuing education units every five years,
20 remains in good standing with the department, and registers annually with the department. Any
21 person certified pursuant to this section shall register annually with the department.

22 Section 5. Any person may engage in interpreting during the worship service of any religious
23 organization without being certified pursuant to sections 3 or 4 of this Act and registered with
24 the Department of Human Services.

1 Section 6. That § 1-36A-10.1 be amended to read as follows:

2 1-36A-10.1. The Department of Human Services ~~may examine, certify,~~ shall register and
3 renew the certificates registrations annually of duly qualified applicants to be interpreters for
4 the deaf any person certified in accordance with sections 3 or 4 of this Act who demonstrates
5 compliance with this Act and payment of the applicable fees.

6 Section 7. That § 1-36A-11 be amended to read as follows:

7 1-36A-11. ~~The Department of Human Services shall establish a review panel, which shall~~
8 ~~meet at least semiannually, to review and assign interpreter qualification levels based upon a~~
9 ~~performance review before the panel, a review of certification issued by another state or territory~~
10 ~~or a review of certification issued by a nationally administered examination. The review panel~~
11 ~~shall consist of five individuals who are fluent in American sign language, signed English, or~~
12 ~~a combination of both. Three individuals shall be deaf or hard of hearing, and two individuals~~
13 ~~shall be Level V South Dakota certified interpreters. All individuals serving on the review panel~~
14 ~~shall have successfully completed the evaluators' training based on the National Association for~~
15 ~~the Deaf Interpreter Assessment Evaluator's Manual. The department shall maintain, and~~
16 ~~publish, and make available upon request a registry of all certified interpreters and their~~
17 ~~respective levels of qualification.~~

18 Section 8. That § 1-36A-12 be amended to read as follows:

19 1-36A-12. The Department of Human Services may promulgate rules pursuant to chapter
20 1-26 to ~~establish interpreter certificate qualifications,~~ establish continuing education
21 requirements for individuals registered with the department pursuant to subdivision (4) of
22 section 4 of this Act, and may establish separate interpreter certification and to establish
23 qualifications, continuing education requirements, mentoring requirements, and requirements
24 for an approved plan for provisional certification, as well as for interpreters serving in medical,

1 ~~educational, or legal settings pursuant to section 3 of this Act.~~

2 Section 9. That § 1-36A-13 be amended to read as follows:

3 1-36A-13. The fund for certification of interpreters for the deaf ~~is hereby created~~ in the state
4 treasury is renamed the fund for registration of interpreters for the deaf. All fees received by the
5 Department of Human Services and money collected under § 1-36A-15 shall be deposited in the
6 fund. Any money in the fund is continuously appropriated to the department for expenses
7 incurred in the provisional certification and registration of interpreters for the deaf and may be
8 expended by the secretary of human services. ~~The compensation and expenses of the interpreter~~
9 ~~review panel shall be paid from the fees received under the provisions of § 1-36A-15. The~~
10 ~~department may require any applicant who is taking a nationally administered examination to~~
11 ~~remit the portion of the certification fee covering the cost of the examination directly to the~~
12 ~~organization administering the examination.~~

13 Section 10. That § 1-36A-14 be amended to read as follows:

14 1-36A-14. Any balance of fees received by the Department of Human Services after
15 payment of compensation and expenditures may be expended by the secretary of human services
16 only in administering §§ 1-36A-10.1 to 1-36A-16, inclusive, and this Act.

17 Section 11. That § 1-36A-15 be amended to read as follows:

18 1-36A-15. The Department of Human Services shall promulgate rules pursuant to chapter
19 1-26 to establish the following nonrefundable fees for provisional certification and registration:

- 20 (1) For ~~initial or~~ provisional certification ~~by examination or endorsement~~, not more than
21 three hundred twenty-five dollars;
- 22 (2) For ~~reexamination, not more than the amount required for initial certification by~~
23 ~~examination or endorsement~~ initial registration, not more than fifty dollars;
- 24 (3) For annual renewal of certificate registration, not more than thirty-five dollars;

1 (4) For effecting a name change upon the records of a ~~certificate holder~~ registrant, not
2 more than ten dollars;

3 (5) ~~For reinstatement of a lapsed certificate, the current fee for initial certification by~~
4 ~~examination or endorsement, and~~

5 ~~(6) For issuing a duplicate certificate registration, not more than ten dollars; and~~

6 (6) For initial registration and annual renewal of individuals certified pursuant to
7 subdivision (4) of section 4, not more than seventy-five dollars.

8 Section 12. That § 1-36A-16 be amended to read as follows:

9 1-36A-16. ~~Sections~~ The provisions of this Act and §§ 1-36A-10.1 to 1-36A-15, inclusive,
10 do not prohibit:

11 (1) Any signing assistance in a medical emergency until the assistance of a certified
12 interpreter is obtained;

13 (2) The practice of interpreting, if directly supervised by a certified interpreter, included
14 in a program of study by a student enrolled in an approved program for the
15 preparation of interpreters for the deaf;

16 (3) The practice of a legally qualified interpreter for the deaf from another state
17 employed by the United States government and performing official duty in this state;
18 and

19 (4) The practice of interpreting in this state by an interpreter for the deaf currently
20 licensed in another state, territory, or foreign country who is present in this state to
21 lecture relative to the practice of interpreting for a period of not more than twenty
22 days.

23 Section 13. That § 1-36A-19 be repealed.

24 ~~1-36A-19. Any interpreter for the deaf receiving remuneration for services in any~~

1 ~~interpreting situation shall participate in a review panel's evaluation and satisfactorily achieve~~
2 ~~certification within one year of registration pursuant to § 1-36A-11. A violation of this section~~
3 ~~is a Class 2 misdemeanor.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0417

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1154 - 02/02/2006

Introduced by: Representatives Dykstra, Dennert, Faehn, Fryslie, Haley, Halverson, Hargens, Jensen, McCoy, Miles, Novstrup, Rhoden, Sigdestad, and Street and Senators Peterson (Jim), Bartling, Duenwald, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hundstad, Koskan, Lintz, McNenny, Olson (Ed), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to impose an excise tax on the gross receipts from the sale
2 and use of farm machinery, farm attachment units, and irrigation equipment, to exempt the
3 gross receipts from the sale of farm machinery, farm attachment units, and irrigation
4 equipment from sales and use tax, and to declare an emergency.

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

6 Section 1. There is hereby imposed an excise tax of four percent on the gross receipts from
7 the sale, resale, or lease of farm machinery, attachment units, and irrigation equipment used
8 exclusively for agricultural purposes. However, if any trade-in or exchange of used farm
9 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise
10 tax is only due and may only be collected on the cash difference.

11 Section 2. An excise tax is hereby imposed on the privilege of the use, storage, and
12 consumption in this state of farm machinery, attachment units, and irrigation equipment used
13 exclusively for agricultural purposes purchased or leased for use in this state at the same rate



1 of the purchase price of said property as imposed pursuant to section 1 of this Act.

2 Section 3. An excise tax is imposed at the same rate as imposed by section 1 of this Act on
3 the privilege of the use, storage, or consumption in this state of farm machinery, attachment
4 units, and irrigation equipment used exclusively for agricultural purposes not originally
5 purchased for use in this state, but thereafter used, stored, or consumed in this state, at the same
6 rate as provided in section 1 of this Act and imposed on the fair market value of the property
7 at the time it is brought into this state. However, if any trade-in or exchange of used farm
8 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise
9 tax is only due and may only be collected on the cash difference. The use, storage, or
10 consumption of farm machinery, attachment units, and irrigation equipment used exclusively
11 for agricultural purposes that is more than seven years old at the time it is brought into the state
12 by the person who purchased such property for use in another state is exempt from the tax
13 imposed by this Act.

14 Section 4. For purposes of this Act, farm machinery, includes all-terrain vehicles of three
15 or more wheels used exclusively by the purchaser for agricultural purposes on agricultural land.
16 The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle will be
17 used exclusively for agricultural purposes.

18 Section 5. Farm machinery and attachment units, other than replacement parts, and irrigation
19 equipment sold at public auction shall be taxed pursuant to section 1 of this Act without regard
20 to its intended use.

21 Section 6. The tax imposed by section 1 of this Act shall be collected and administered by
22 the Department of Revenue and Regulation.

23 Section 7. Any person who holds a license issued pursuant to this Act or chapters 10-33A,
24 10-45, 10-45D, 10-46A, 10-46B, or 10-52A or who is a person whose receipts are subject to the

1 tax imposed by or this Act or chapters 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-52A
2 shall, except as otherwise provided in this section, file a return, and pay any tax due, to the
3 Department of Revenue and Regulation on or before the twentieth day of the month following
4 each monthly period. The return shall be filed on forms prescribed and furnished by the
5 department.

6 If the person remits the tax by electronic transfer to the state, the person shall file the return
7 by electronic means on or before the twenty-third day of the month following each monthly
8 period and remit the tax on or before the second to the last day of the month following each
9 monthly period.

10 The secretary may require or allow a person to file a return, and pay any tax due, on a basis
11 other than monthly and the return and remittance is due the last day of the month following the
12 reporting period, or at time otherwise determined by the secretary.

13 The secretary of revenue and regulation may grant an extension of not more than five days
14 for filing a return and remittance. However, the secretary of revenue and regulation may grant
15 an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-
16 107, inclusive, for six months.

17 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return
18 or remittance is not made on time.

19 Section 8. Where applicable and not inconsistent with this Act, the provisions of chapters
20 10-45 and 10-46, including the exemption, definition, administrative, collection, and
21 enforcement provisions, including penalty and interest, are applicable to the tax imposed by this
22 Act.

23 Section 9. The revenue from the tax imposed by this Act shall be deposited in the general
24 fund.

1 Section 10. There are exempted from the tax imposed by this Act, gross receipts from the
2 rental of devices primarily used to apply fertilizers and pesticides as defined in § 38-20A-1, for
3 agricultural purposes, if the tax imposed by this Act was paid upon the original purchase of the
4 device.

5 Section 11. The secretary of revenue and regulation may promulgate rules pursuant to
6 chapter 1-26 concerning:

- 7 (1) Licensing, including bonding and filing license applications;
- 8 (2) The filing of returns and payment of the tax;
- 9 (3) Determining the application of the tax and exemptions;
- 10 (4) Taxpayer record-keeping requirements;
- 11 (5) Determining auditing methods; and
- 12 (6) Determining the age and value of the farm machinery, attachment units, and
13 irrigation equipment brought into this state.

14 Section 12. Any person who:

- 15 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed
16 by this Act is guilty of a Class 6 felony;
- 17 (2) Fails to pay tax due under this Act within thirty days from the date the tax becomes
18 due is guilty of a Class 1 misdemeanor;
- 19 (3) Fails to keep the records and books required by this Act or refuses to exhibit these
20 records to the secretary of revenue or the secretary's agents for the purpose of
21 examination is guilty of a Class 1 misdemeanor;
- 22 (4) Fails to file a return required by this Act within thirty days from the date the return
23 is due is guilty of a Class 1 misdemeanor;
- 24 (5) Willfully violates any rule of the secretary of revenue for the administration and

1 enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or

2 (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-
3 month period is guilty of a Class 6 felony.

4 For purposes of this section, the term, person, includes an officer, member, member-
5 manager, partner, general partner, or limited partner of an entity organized pursuant to Title 47
6 or 48 who has control or supervision of, or is charged with the responsibility for, making tax
7 returns or payments pursuant to this Act.

8 Section 13. That § 10-59-1 be amended to read as follows:

9 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
10 or fees imposed by, and to any civil or criminal investigation authorized by, chapters 10-39, 10-
11 39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A,
12 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13
13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

14 Section 14. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 There are exempted from the provisions of this chapter and from the tax imposed by it, gross
17 receipts from the sale, resale, or leasing of farm machinery, attachment units, and irrigation
18 equipment used exclusively for agricultural purposes. The term, farm machinery, includes
19 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural
20 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that
21 the all-terrain vehicle will be used exclusively for agricultural purposes.

22 Section 15. That § 10-45-3 be repealed.

23 ~~10-45-3. There is hereby imposed a tax of four percent on the gross receipts from the sale~~
24 ~~or resale of farm machinery and attachment units other than replacement parts; or irrigation~~

1 ~~equipment used exclusively for agricultural purposes by licensed South Dakota retailers.~~
2 ~~However, if any trade-in or exchange of used farm machinery is involved in the transaction, the~~
3 ~~tax is only due and shall be collected only on the cash difference.~~

4 Section 16. That § 10-45-3.2 be repealed.

5 ~~— 10-45-3.2. For purposes of § 10-45-3, farm machinery shall include all-terrain vehicles of~~
6 ~~three or more wheels used exclusively by the purchaser for agricultural purposes on agricultural~~
7 ~~land. The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle~~
8 ~~will be used exclusively for agricultural purposes.~~

9 Section 17. That § 10-45-3.3 be repealed.

10 ~~— 10-45-3.3. Farm machinery and attachment units, other than replacement parts, and~~
11 ~~irrigation equipment sold at public auction shall be taxed pursuant to § 10-45-3 without regard~~
12 ~~to its intended use.~~

13 Section 18. That § 10-45-5 be amended to read as follows:

14 10-45-5. There is imposed a tax at the rate of ~~four percent upon the gross receipts of any~~
15 ~~person from engaging in the business of leasing farm machinery or irrigation equipment used~~
16 ~~for agricultural purposes and four percent upon the gross receipts of any person from engaging~~
17 ~~or continuing in any of the following businesses or services in this state: abstracters;~~
18 ~~accountants; architects; barbers; beauty shops; bill collection services; blacksmith shops; car~~
19 ~~washing; dry cleaning; dyeing; exterminators; garage and service stations; garment alteration;~~
20 ~~cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry; linen and~~
21 ~~towel supply; membership or entrance fees for the use of a facility or for the right to purchase~~
22 ~~tangible personal property or services; photography; photo developing and enlarging; tire~~
23 ~~recapping; welding and all repair services, except farm machinery, farm attachment units, or~~
24 ~~irrigation equipment repair services; cable television; and rentals of tangible personal property~~

1 except leases of tangible personal property between one telephone company and another
2 telephone company, motor vehicles as defined by § 32-5-1 leased under a single contract for
3 more than twenty-eight days and mobile homes. However, the specific enumeration of
4 businesses and professions made in this section does not, in any way, limit the scope and effect
5 of § 10-45-4.

6 Section 19. That § 10-45-5.2 be amended to read as follows:

7 10-45-5.2. The following services enumerated in the Standard Industrial Classification
8 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
9 Budget, Office of the President, are specifically subject to the tax levied by this chapter: metal
10 mining services (group no. 108); coal mining (major group 12); nonmetallic minerals (except
11 fuels) services (group no. 148); service industries for the printing trade (group no. 279); coating,
12 engraving and allied services (group no. 347); communication, electric and gas services
13 (division E except group nos. 483, 494 and 495); hotels, motels, and tourist courts (group no.
14 701); rooming and boarding houses (group no. 702); camps and recreational vehicle parks
15 (group no. 703); personal services (major group 72); business services (major group 73);
16 automotive repair, services, and parking (major group 75); miscellaneous repair services (major
17 group 76), except farm machinery, farm attachment units, or irrigation equipment repair
18 services; amusement and recreation services (major group 79); legal services (major group 81);
19 landscape and horticultural services (group no. 078); engineering, accounting, research,
20 management, and related services (major group 87, except industry no. 8733); title abstract
21 offices (group no. 654); consumer credit reporting agencies, mercantile reporting agencies, and
22 adjustment and collection agencies (group no. 732); real estate agents and managers (group no.
23 653); funeral service and crematories (group no. 726), except that purchases of goods or services
24 with money advanced as an accommodation are retail purchases and are not includable in gross

1 receipts for funeral services and fees paid or donated for religious ceremonies are not includable
2 in gross receipts for funeral services; loan brokers (industry no. 6163); repair shops and related
3 services, not elsewhere classified (industry no. 7699) but only locksmiths and locksmith shops;
4 and floor laying and other floor work not elsewhere classified (industry no. 1752). In addition,
5 the following services are also specifically subject to the tax levied by this chapter: livestock
6 slaughtering services; dog grooming services; airplane, helicopter, balloon, dirigible and blimp
7 rides for amusement or sightseeing; the collection and disposal of solid waste; and all appraiser's
8 services. The services enumerated in this section may not be construed as a comprehensive list
9 of taxable services but rather as a representative list of services intended to be taxable under this
10 chapter.

11 Section 20. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 There are exempted from the provisions of this chapter and from the tax imposed by it, gross
14 receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation
15 equipment used exclusively for agricultural purposes. The term, farm machinery, includes
16 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural
17 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that
18 the all-terrain vehicle will be used exclusively for agricultural purposes.

19 Section 21. That § 10-45-16.1 be amended to read as follows:

20 10-45-16.1. There are hereby specifically exempted from the provisions of this chapter and
21 from the computation of the amount of tax imposed by it, gross receipts from the sale of
22 pesticides, as defined in § 38-20A-1, to be used exclusively by the purchaser for agricultural
23 purposes. Any product or substance to be used in conjunction with the application or use of
24 pesticides for agricultural purposes is also exempt. ~~Such~~ The products or substances include;

1 ~~but are not limited to~~, adjuvants, surfactants, ammonium sulfate, inoculants, drift retardants,
2 water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other than farm
3 machinery, attachment units, and irrigation equipment uses exclusively for agricultural purposes
4 for the application of pesticides and related products and substances is not exempt. The tax
5 imposed by this chapter on endoparasiticides and ectoparasiticides shall be deposited in the
6 veterinary student tuition and animal disease research and diagnostic laboratory fund to be used
7 for veterinary student tuition grants and the operations and activities conducted by the State
8 Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

9 Section 22. That § 10-46-17.5 be amended to read as follows:

10 10-46-17.5. The use in this state of ~~insecticides, herbicides, pesticides, rodenticides, and~~
11 ~~fungicides~~ as defined in § 38-20A-1 to be used exclusively for agricultural purposes is
12 specifically exempted from the tax imposed by this chapter. Any product or substance to be used
13 in conjunction with the application or use of pesticides for agricultural purposes is also exempt.
14 These products or substances include adjuvants, surfactants, ammonium sulfate, inoculants, drift
15 retardants, water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other
16 than farm machinery, attachment units, and irrigation equipment used exclusively for
17 agricultural purposes, for the application of pesticides and related products and substances is not
18 exempt. The tax imposed by this chapter on endoparasiticides and ectoparasiticides shall be
19 deposited in the veterinary student tuition and animal disease research and diagnostic laboratory
20 fund to be used for veterinary student tuition grants and the operations and activities conducted
21 by the State Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

22 Section 23. That § 10-12A-4 be amended to read as follows:

23 10-12A-4. The department may enter into tax collection agreements with any Indian tribe
24 under the provisions of this chapter and chapter 1-24. These agreements may provide for the

1 collection of any of the following state taxes and any tribal taxes imposed by a tribe that are
2 identical to the following state taxes:

- 3 (1) The retail sales and service tax imposed by chapter 10-45;
- 4 (2) The use tax imposed by chapter 10-46;
- 5 (3) The contractors' excise tax imposed by chapter 10-46A;
- 6 (4) The alternate contractors' excise tax imposed by chapter 10-46B;
- 7 (5) The cigarette tax imposed by chapter 10-50;
- 8 (6) The motor vehicle excise tax imposed by chapter 32-5B;
- 9 (7) The fuel excise tax imposed by chapter 10-47B;
- 10 (8) The wholesale tax on tobacco products imposed by chapter 10-50;
- 11 (9) The amusement device tax imposed by chapter 10-58; ~~or~~
- 12 (10) The gross receipts tax on visitor related businesses imposed by chapter 10-45D;
- 13 (11) The excise tax on farm machinery, attachment units, and irrigation equipment
14 imposed by this Act.

15 The agreement may provide for the retention by the department of an agreed-upon
16 percentage of the gross revenue as an administrative fee.

17 Section 24. Sections 1 to 20, inclusive, are effective on April 1, 2006.

18 Section 25. Whereas, this Act is necessary for the support of the state government and its
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
20 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

497M0157

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1160 - 01/31/2006

Introduced by: Representatives Brunner, Elliott, Hackl, Hennies, Hills, Lange, McCoy, Nelson, Novstrup, Rave, Roberts, Schafer, Street, Tornow, and Weems and Senators Kooistra and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide additional state funding to school districts that
2 offer certain services and opportunities to students receiving alternative instruction.

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

4 Section 1. That § 13-13 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 In addition to the funds from the foundation program fund distributed to schools according
7 to the provisions of §§ 13-13-10.1 to 13-13-41, inclusive, a school district is entitled to
8 additional funds in an amount equal to twenty-five percent of the per student allocation as
9 defined in subdivision 13-13-10.1(4) for every student who resides in the district and is
10 receiving alternative instruction as set forth in § 13-27-3. However, a school district may only
11 receive the funding set forth in this section if the district provides the student with the
12 opportunity to participate in interscholastic activities pursuant to § 13-36-7 and also makes
13 available to the student other services provided by the school.

14 In order to receive this funding, a school district shall apply on forms provided by the



1 Department of Education. The Department of Education may promulgate rules pursuant to
2 chapter 1-26 to establish application procedures, timelines, and procedures for determining
3 funding eligibility.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

255M0493

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1162** -

02/02/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Howie, Boomgarden, Brunner, Davis, Dykstra, Faehn, Frost, Fryslie, Gassman, Glover, Halverson, Hanks, Hargens, Haverly, Jensen, Jerke, Koistinen, Kraus, Kroger, McCoy, Murschel, Nelson, O'Brien, Pederson (Gordon), Peters, Rausch, Rave, Rhoden, Sigdestad, Street, Turbiville, Valandra, Van Etten, Vehle, and Willadsen and Senators Apa, Kloucek, Lintz, McNenny, and Moore

1 FOR AN ACT ENTITLED, An Act to provide for restitution to the state for expenses incurred
2 in investigating false claims related to pesticide use.

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

4 Section 1. That chapter 38-21 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person, or representative of the person, who files with the secretary an allegedly false
7 or frivolous claim of damage caused by the use of a pesticide is subject to an action in circuit
8 court initiated by the State of South Dakota. If the court determines that the person or the
9 person's representative intentionally or maliciously filed a false or frivolous claim of damage
10 caused by the use of a pesticide, the person shall provide restitution, as determined by the court,
11 for expenses incurred by the State of South Dakota in the investigation of the false or frivolous
12 claim.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

760M0659

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1186 - 02/01/2006

Introduced by: Representatives Murschel, Elliott, Hunt, Jensen, Michels, and Rave and
Senators Gray, Abdallah, Dempster, Gant, Kooistra, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide a procedure for implementing the standard
2 visitation guidelines.

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

4 Section 1. That chapter 25-4A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person entitled, by court order, to visitation or custody may request the court to enter
7 an order implementing the standard visitation guidelines. The request shall be in writing, but
8 no particular formality is required by the moving party. Upon receipt of the written request, the
9 court shall serve a copy of the standard guidelines upon both parties by first class mail and shall
10 conduct an expedited hearing as soon as practical. Based upon the evidence presented at the
11 hearing, the court may order the parties to abide by the standard visitation guidelines or may
12 order any other relief as it deems appropriate.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

751M0527

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1205 - 02/01/2006

Introduced by: Representatives Deadrick, Cutler, Gillespie, Haley, Michels, and O'Brien and
Senators Gray, Bogue, Knudson, Koetzle, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to provide for an exemption to the records search fee for
2 attorneys of record.

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

4 Section 1. That § 16-2-29.5 be amended to read as follows:

5 16-2-29.5. The clerk of court shall charge a records search fee in the amount of fifteen
6 dollars for each record search conducted if the search is requested by a person who is not a party
7 named in the action for which the search is being requested. The clerk shall charge a fee of five
8 dollars if the requesting party certifies that the search is being requested in conjunction with a
9 pending state or federal cause of action. A separate fee shall be charged for each name, whether
10 individual or corporate, for which a search is requested. The clerk shall deposit the fee in
11 accordance with § 16-2-43. The clerk may not charge a records search fee if the search is
12 requested by an attorney or the attorney's staff.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

571M0617

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1209 - 02/02/2006

Introduced by: Representatives Cutler, Bradford, Brunner, Buckingham, Dykstra, Gassman, Haley, Haverly, Hennies, Hills, Hunt, Jensen, Klaudt, Kraus, McCoy, Murschel, Rausch, Roberts, Schafer, Sigdestad, Street, Turbiville, Van Etten, and Willadsen and Senators Dempster, Abdallah, Bogue, Duenwald, Earley, Gray, Greenfield, Hanson (Gary), Knudson, Moore, Napoli, Nesselhuf, Olson (Ed), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding payday loans.

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

3 Section 1. That § 54-4-36 be amended to read as follows:

4 54-4-36. Terms used in ~~§§ 54-4-36 to 54-4-63, inclusive, and §§ 54-4-65 and 54-4-66~~ this
5 chapter mean:

6 (1) "Advertisement," a commercial message in any medium that aids, promotes, or
7 assists, directly or indirectly, the sale of products or services;

8 (2) "Commission," the State Banking Commission;

9 (3) "Director," the director of the Division of Banking of the Department of Revenue and
10 Regulation;

11 (4) "Division," the Division of Banking;

12 (5) "Finance charge," the amount, however denominated, which is ~~paid or payable for~~
13 ~~the privilege of paying for goods or services in one or more installments at the~~



1 ~~beginning of the transaction~~ the direct or indirect cost payable by a borrower for a
2 loan;

3 (6) "Financing institutions," any person engaged in the business of creating and holding
4 or purchasing or acquiring retail installment contracts;

5 (7) "Installment loan," a loan made to be repaid in specified amounts over a certain
6 number of months;

7 (8) "License," a license provided by §§ ~~54-4-36 to 54-4-63~~, inclusive this chapter;

8 (9) "Installment loan contract" or "contract," an agreement evidencing a installment loan
9 transaction;

10 (10) "Licensee," any person holding a license;

11 (11) "Loan," any installment loan, single pay loan, or open-end loan which may be
12 unsecured or secured by real or personal property; ~~and~~

13 (12) "Payday loan," any ~~small~~, short-maturity loan on the security of a check, any
14 assignment of an interest in the account of a person at a depository institution, any
15 authorization to debit the person's deposit account, ~~or~~ any assignment of salary or
16 wages payable to a person. A short-maturity loan made in anticipation of an income
17 tax refund is not a payday loan for purposes of this chapter.;

18 (13) "Regional revolving loan fund," a regional revolving loan fund with a service area
19 of at least five South Dakota counties, a designated staff for loan processing and
20 servicing, a loan portfolio of at least one million dollars, and which is governed by
21 a board of directors that meets at least quarterly; and

22 (14) "Short-term consumer loan," any loan to any individual borrower with a duration of
23 six months or less, including a payday loan.

24 Section 2. That § 54-4-58 be amended to read as follows:

1 54-4-58. The licensee shall disclose in any loan contract the following:

- 2 (1) The amount and date of the loan;
- 3 (2) The amount of the down payment, if any;
- 4 (3) The dates any payments are due and the amount of payments;
- 5 (4) A list of any property used to secure the loan;
- 6 (5) Any liens or title filings required;
- 7 (6) The method used to compute the charges;
- 8 (7) An explanation of ~~the charges~~ any fee or charge, including the cost of the loan as an
- 9 annual percentage rate (APR);
- 10 (8) Any fee or charge that may be applied for delinquency;
- 11 (9) The conditions for an extension of payment or maturity of the loan; ~~and~~
- 12 (10) Refinancing requirements, including any fee or charge; and
- 13 (11) The address and telephone number of the Division of Banking and that any
- 14 improprieties in making the loan or in loan practices may be referred to the division.

15 The licensee shall provide a copy of the loan contract to the debtor. A violation of this
16 section is a Class 2 misdemeanor.

17 Section 3. That § 54-4-65 be amended to read as follows:

18 54-4-65. No licensee may renew, rollover, or flip a ~~payday~~ short-term consumer loan more
19 than four times. No renewal, rollover, or flip is valid unless, at the time of the renewal, rollover,
20 or flip, the debtor pays the outstanding fee ~~at the time of the renewal~~ and reduces the principal
21 amount of the loan as provided in this section. Upon the first renewal, rollover, or flip and each
22 subsequent renewal, rollover, or flip, the debtor shall reduce the principal amount of the loan
23 by not less than twenty percent of the original amount of the loan.

24 Section 4. That § 54-4-40 be amended to read as follows:

1 54-4-40. Any person who engages in the business of lending money shall apply for a license
2 as prescribed by §§ ~~54-4-36 to 54-4-63~~, inclusive this chapter. The applicant shall apply for a
3 license under oath on forms supplied by the division. The application shall contain the name of
4 the applicant's business, proof of surety bond, address of the business, the names and addresses
5 of the partners, members, officers, directors, or trustees, and other information the director may
6 consider necessary. The applicant shall pay an original license fee as set by rules of the
7 commission promulgated pursuant to chapter 1-26 not to exceed one thousand dollars. If the
8 application of an existing licensee is for an additional location, the application need only include
9 the location and identity of the location manager, plus any changes from the existing license,
10 or such other information the director may consider necessary. The State of South Dakota, any
11 political subdivision of the state, and any quasi-governmental organization created by an
12 executive order of the State of South Dakota and any subsidiary of such organization; any
13 nonprofit corporation formed pursuant to chapter 47-22; any nonprofit United States Treasury
14 Community Development Financial Institution, Small Business Administration Certified
15 Development Company, or Regional Revolving Loan Fund; or any commercial club, chamber
16 of commerce, or industrial development corporation formed pursuant to § 9-12-11 or 9-27-37
17 is subject to this chapter but exempt from initial license fees, renewal fees, and surety bond
18 requirements under this chapter.

19 Section 5. That § 54-4-42 be amended to read as follows:

20 54-4-42. The applicant shall submit with the application for a license a bond in an amount
21 not to exceed the total of ten thousand dollars for the first license and two thousand five hundred
22 dollars for each additional license. The bond shall be satisfactory to the director and issued by
23 a surety company qualified to do business as a surety in this state. The bond shall be in favor of
24 this state for the use of this state and any person who has a cause of action under §§ ~~54-4-36 to~~

1 ~~54-4-63, inclusive, this chapter~~ against the licensee. The bond shall be conditioned on:

2 (1) The licensee's faithful performance under §§ ~~54-4-36 to 54-4-63, inclusive, this~~
3 ~~chapter~~ and any rules adopted pursuant to §§ ~~54-4-36 to 54-4-63, inclusive this~~
4 ~~chapter~~; and

5 (2) The payment of any amounts that are due to the state or another person during the
6 calendar year for which the bond is given.

7 The aggregate liability of a surety to all persons damaged by a licensee's violation of §§ ~~54-~~
8 ~~4-36 to 54-4-63, inclusive, this chapter~~ may not exceed the amount of the bond.

9 Section 6. That § 54-4-48 be amended to read as follows:

10 54-4-48. The director may issue a cease and desist order from any practice that does not
11 conform to the requirements set forth in §§ ~~54-4-36 to 54-4-63, inclusive, this chapter~~ or any
12 commission rule, order, or condition imposed in writing, or any federal statute, rule, or
13 regulation pertaining to consumer credit. A cease and desist order may be issued to any licensee
14 or to any person engaging in the business of lending money without a license. A licensee
15 aggrieved by such order may appeal pursuant to chapters 1-26 and 1-26D.

16 Section 7. That § 54-4-51 be amended to read as follows:

17 54-4-51. In addition to any other means provided by law for the enforcement of a restraining
18 order or injunction, the court, in which the action is brought, may impound, and appoint a
19 receiver for, the property and business of the defendant, including books, papers, documents,
20 and records, as the court may deem reasonably necessary to prevent violations of §§ ~~54-4-36 to~~
21 ~~54-4-63, inclusive this chapter~~. The receiver, when so appointed and qualified, shall control the
22 custody, collection, administration, and liquidation of the property and business.

23 Section 8. That § 54-4-53 be amended to read as follows:

24 54-4-53. Any money received by the division pursuant to §§ ~~54-4-36 to 54-4-63, inclusive,~~

1 this chapter shall be deposited in the banking revolving fund.

2 Section 9. That § 54-4-55 be amended to read as follows:

3 54-4-55. Except for taxes on real property and license fees and other fees imposed by §§ ~~54-~~
4 ~~4-36 to 54-4-63, inclusive~~ this chapter, the tax imposed in § 54-4-54 is in lieu of all other taxes
5 and license fees, state, county, or local, upon the business of the licensee, or upon any money,
6 credits, or other assets of the licensee whether tangible or intangible, and which money, credits,
7 or other assets are used for or in connection with the conduct of business transacted in South
8 Dakota. However, amounts determined to be in excess of business capital requirements are not
9 exempt from other taxes.

10 Section 10. That § 54-4-57 be amended to read as follows:

11 54-4-57. The division may annually, or as often as the director considers necessary, conduct
12 an examination of business records and accounts of any licensee licensed under §§ ~~54-4-36 to~~
13 ~~54-4-63, inclusive~~ this chapter. The director may charge back to the licensee any cost associated
14 with an on-site examination. The director may waive an on- site examination and only require
15 an annual self-examination. If a licensee conducts a self-examination, the licensee shall provide
16 any information requested under oath and on forms provided by the division by order or rule.
17 The provisions of § 51A-2-35 apply to records and examination reports required under this
18 chapter.

19 Section 11. That § 54-4-64 be amended to read as follows:

20 54-4-64. The provisions of §§ ~~54-4-36 to 54-4-63, inclusive,~~ this chapter do not apply to any
21 person selling goods or services and providing financing for such goods or services.