

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

776N0200

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1149** - 02/12/2007

Introduced by: Representatives Lucas, Ahlers, Bradford, DeVries, Elliott, Gassman, Gilson, Hills, McLaughlin, Novstrup (Al), Olson (Ryan), Thompson, and Weems and Senators Two Bulls, Hanson (Gary), Olson (Ed), and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to prohibit the firing of a firearm at any school building,  
2 vehicle, or premises.

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

4 Section 1. That § 13-32-4 be amended to read as follows:

5 13-32-4. The school board of every school district shall assist and cooperate with the  
6 administration and teachers in the government and discipline of the schools. The board may  
7 suspend or expel from school any student for violation of rules or policies or for insubordination  
8 or misconduct, and the superintendent or principal in charge of the school may temporarily  
9 suspend any student in accordance with § 13-32-4.2. The rules or policies may include  
10 prohibiting the following:

11 (1) The consumption or possession of beer or alcoholic beverages on the school premises  
12 or at school activities;

13 (2) The use or possession of a controlled substance, without a valid prescription, on the  
14 school premises or at school activities; and



1       (3)    The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary  
2            or secondary school premises, vehicle, or building or any premises, vehicle, or  
3            building used or leased for elementary or secondary school functions or activities; or  
4            the intentional firing of a firearm, as provided in § 13-32-7, at or upon any  
5            elementary or secondary school premises, vehicle, or building or any premises,  
6            vehicle, or building used or leased for elementary or secondary school functions or  
7            activities.

8            In addition to administrative and school board disciplinary action, any violation of § 13-32-7  
9 shall be reported to local law enforcement authorities.

10          The period of expulsion may extend beyond the semester in which the violation,  
11 insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer  
12 or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally  
13 brought a firearm onto school premises, the expulsion may not be for less than twelve months.

14          However, the superintendent or chief administering officer of each local school district or  
15 system may increase or decrease the length of a firearm-related expulsion on a case-by-case  
16 basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to  
17 establish administrative due process procedures for the protection of a student's rights. The  
18 administrative due process procedures shall include a requirement that the school give notice  
19 of a student's due process rights to the parent or guardian of the student at the time of suspension  
20 or expulsion. Each school district board shall provide a procedural due process hearing, if  
21 requested, for a student in accordance with such rules if the suspension or expulsion of the  
22 student extends into the eleventh school day.

23          This section does not preclude other forms of discipline which may include suspension or  
24 expulsion from a class or activity.

1 This section does not prohibit a local school district from providing educational services to  
2 an expelled student in an alternative setting.

3 Section 2. That § 13-32-7 be amended to read as follows:

4 13-32-7. Any person, other than a law enforcement officer, who intentionally carries, has  
5 in his possession, stores, keeps, leaves, places, or puts into the possession of another person, any  
6 firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended  
7 primarily for imitative or noisemaking purposes, or any dangerous weapon, on or in any  
8 elementary or secondary school premises, vehicle, or building or any premises, vehicle, or  
9 building used or leased for elementary or secondary school functions or who intentionally fires  
10 a firearm at or upon any elementary or secondary school premises, vehicle, or building or any  
11 premises, vehicle, or building used or leased for elementary or secondary school functions,  
12 whether or not any person is endangered by such actions, is guilty of a Class 1 misdemeanor.

13 This section does not apply to starting guns while in use at athletic events, firearms, or air guns  
14 at firing ranges, gun shows, and supervised schools or sessions for training in the use of  
15 firearms. This section does not apply to the ceremonial presence of unloaded weapons at color  
16 guard ceremonies.