

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0235

SENATE ENGROSSED NO. **HB 1036** - 3/8/2010

Introduced by: The Committee on State Affairs at the request of the Department of Revenue  
and Regulation

1 FOR AN ACT ENTITLED, An Act to create a licensing category for the owners of property  
2 where licensed gaming is conducted in the city of Deadwood.

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

4 Section 1. That § 42-7B-4 be amended to read as follows:

5 42-7B-4. Terms used in this chapter mean:

- 6 (1) "Adjusted gross proceeds," except in the case of the games of poker, gross proceeds  
7 less cash prizes. In games of poker, the term, "~~adjusted gross proceeds,~~" means any  
8 sums wagered in a poker hand which may be retained by the licensee as  
9 compensation which must be consistent with the minimum and maximum amount  
10 established by the South Dakota Commission on Gaming;
- 11 (2) "Bet," an amount placed as a wager in a game of chance;
- 12 (3) "Blackjack," a card game played by a maximum of seven players in which each  
13 player bets against the dealer. The object is to draw cards whose value will equal or  
14 approach twenty-one without exceeding that amount and win amounts bet, payable  
15 by the dealer, if the player holds cards more valuable than the dealer's cards. The



1 commission may promulgate rules pursuant to chapter 1-26 authorizing variations of  
2 the game;

3 (4) "City limits," the boundaries of the City of Deadwood as they existed on January 1,  
4 1989;

5 (5) "Commission," the South Dakota Commission on Gaming;

6 (6) "Gaming," limited card games and slot machines as allowed and regulated by this  
7 chapter;

8 (6A) "Gaming device," a slot machine, a poker table, or a blackjack table;

9 (7) "Gaming employee," any person twenty-one years of age or older employed by an  
10 operator or retailer hosting gaming to work directly with the gaming portion of that  
11 business and who must hold a support license;

12 (8) "Gaming equipment," any equipment used in gaming that is allowed by this chapter  
13 and which requires licensing;

14 (9) "Gaming license," any license issued by the commission pursuant to this chapter  
15 which authorizes any person to engage in gaming within the City of Deadwood;

16 (9A) "Gaming property owner," any person other than a licensed retailer who owns real  
17 property where licensed gaming is conducted within the city of Deadwood. The term,  
18 gaming property owner, does not include any person who owned real property where  
19 licensed gaming was conducted within the city of Deadwood prior to January 1,  
20 2010;

21 (10) "Historic restoration and preservation," the restoration and preservation of the City  
22 of Deadwood to maintain its historical background, cultural heritage, and necessary  
23 supporting infrastructures;

24 (10A) "Key employee," any executive, employee, or agent of a gaming licensee having the

1 power to exercise a significant influence over decisions concerning any part of the  
2 operation of a gaming licensee;

3 (11) "Licensed gaming establishment," any premises licensed pursuant to this chapter  
4 where gaming is conducted;

5 (12) "Licensee," any person licensed under this chapter;

6 (13) "Licensing authority," the South Dakota Gaming Commission;

7 (14) "Limited card games and slot machines," any card games including poker and  
8 blackjack and slot machines authorized by this chapter and regulated by the  
9 commission;

10 (15) "Net municipal proceeds," the amount remitted to the City of Deadwood by the South  
11 Dakota Commission on Gaming;

12 (16) "Operator," any person who places slot machines in the person's own business  
13 premises;

14 (17) "Person," includes individuals, partnerships, limited liability companies, associations,  
15 and corporations;

16 (18) "Poker," a card game played by players who are dealt cards by a nonplayer dealer.  
17 The object of the game is for each player to bet the superiority of the player's own  
18 hand and win the other players' bets by either making a bet no other player is willing  
19 to match or proving to hold the most valuable cards after all the betting is over. Poker  
20 includes draw, stud, low ball, or any combination thereof. The commission may  
21 promulgate rules pursuant to chapter 1-26 authorizing variations of the game;

22 (19) "Retailer," any licensee who maintains gaming at the licensee's place of business  
23 within the City of Deadwood for use and operation by the public;

24 (20) "Retail space," the area where the retailer's business is principally conducted;

1 (20A) "Route operator," any person who, individually or jointly pursuant to an agreement  
2 whereby consideration is paid for the right to place slot machines or gaming tables,  
3 engages in the business of placing and operating slot machines or gaming tables  
4 within the City of Deadwood;

5 (21) "Slot machines," any mechanical, electrical, or other device, contrivance, or machine  
6 which, upon insertion of a coin, token or similar object, or upon payment of any  
7 consideration whatsoever, is available to play or operate, the play or operation of  
8 which, whether by reason of the skill of the operator or application of the element of  
9 chance, or both, may deliver or entitle the person playing or operating the machine  
10 to receive cash premiums, merchandise, tokens, redeemable game credits or anything  
11 of value other than unredeemable free games whether the payoff is made  
12 automatically from the machines or in any other manner;

13 (22) "Slot machine manufacturer," any person or distributor who designs, assembles,  
14 fabricates, produces, constructs, sells, leases, or who otherwise prepares a product or  
15 a component part of a slot machine, other than tables or cabinetry;

16 (23) "Suitability" or "suitable," in relation to a person is the ability to be licensed by the  
17 commission and as to acts or practices, are lawful acts or practices;

18 (24) "Unsuitability" or "unsuitable," in relation to a person is the inability to be licensed  
19 by the commission because of prior acts, associations, or financial condition, and as  
20 to acts or practices, are those that would violate the statutes or rules or would be  
21 contrary to the declared legislative purpose of this chapter.

22 Section 2. That § 42-7B-22 be amended to read as follows:

23 42-7B-22. The commission may issue the following types of licenses which are required to  
24 conduct gaming under this chapter:

- 1 (1) Slot machine manufacturer or distributor. The license fee is one thousand dollars and  
2 thereafter an annual fee renewable July first of each year in the sum of two hundred  
3 fifty dollars. A slot machine manufacturer or distributor may not be licensed as a  
4 route operator, operator, or retailer;
- 5 (2) Operator license. The license fee is one thousand dollars and thereafter an annual fee  
6 renewable July first of each year of two hundred dollars;
- 7 (3) Retail license. The license fee is two hundred fifty dollars and thereafter an annual  
8 fee renewable July first of each year of one hundred dollars;
- 9 (4) Support license. The license fee is fifty dollars and thereafter an annual fee renewable  
10 January first of each year of twenty-five dollars. This license is required by all  
11 persons seeking employment in the field of gaming;
- 12 (5) Key employee license. The license fee is one hundred fifty dollars and thereafter an  
13 annual fee renewable January first of each year of seventy-five dollars;
- 14 (6) Route operator license. The license fee is one thousand dollars and thereafter an  
15 annual fee renewable July first of each year of two hundred dollars. Each route  
16 operator shall also hold a valid operator license;
- 17 (7) Gaming property owner license. The license fee is two hundred fifty dollars and  
18 thereafter an annual fee renewable July first of each year of one hundred dollars.

19 Conducting gaming without the appropriate license is a Class 6 felony.

20 Section 3. That § 42-7B-25 be amended to read as follows:

21 42-7B-25. Before any person is licensed as an operator, gaming property owner, or retailer,  
22 the person shall show that the person is of good moral character, and if an individual, that the  
23 individual is at least twenty-one years of age.

24 Section 4. That § 42-7B-32 be amended to read as follows:

1       42-7B-32. Any license granted pursuant to this chapter may be suspended or revoked for any  
2 cause which may have prevented its issuance, or for violation by the licensee, or any officer,  
3 director, agent, member, or employee of the licensee, of this chapter or any rule adopted by the  
4 commission or for conviction of a crime of moral turpitude or a felony, after notice to the  
5 licensee and a hearing, upon grounds determined adequate by the commission. In addition to  
6 revocation or suspension or in lieu of revocation or suspension, the commission may impose a  
7 reprimand or a monetary penalty not to exceed the following amounts:

- 8       (1) If the licensee is a slot machine manufacturer distributor, the amount of one hundred  
9           thousand dollars;
- 10       (2) If the licensee is an operator, the amount of twenty-five thousand dollars;
- 11       (3) If the licensee is a retailer or gaming property owner, the amount of twelve thousand  
12           five hundred dollars;
- 13       (4) If the licensee is a key employee, the amount of five thousand dollars; and
- 14       (5) If the licensee has a support license, the sum of two thousand five hundred dollars.

15       Any monetary penalty received by the commission under this section shall go into the  
16 gaming commission fund established by § 42-7B-48 and is to be used solely for the purposes  
17 prescribed by subdivision 42-7B-48(2) and is not subject to the provisions of subdivision 42-7B-  
18 48(4).

19       Section 5. That § 42-7B-33 be amended to read as follows:

20       42-7B-33. Any person, any stockholder owning five percent or more of any corporation or  
21 limited liability company, and any officer or director, or any partner in any partnership involved  
22 as a manufacturer, operator ~~or~~, retailer, or gaming property owner, or key employee or support  
23 licensee involved with the conduct of gaming shall be:

- 24       (1) A person of good character, honesty, and integrity;

- 1       (2)   A person whose prior activities, criminal record, reputation, habits, and associations  
2           do not pose a threat to the public interests of this state or to the control of the gaming,  
3           or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods,  
4           and activities in the conduct of gaming or the carrying on of the business and  
5           financial arrangements incidental to the conduct of gaming;
- 6       (3)   A person who has not entered a plea of guilty or nolo contendere to a felony charge  
7           or has not been convicted of a felony in this or any other jurisdiction, has not been  
8           found to have violated the provisions of this chapter or any rule adopted pursuant to  
9           this chapter, and has not knowingly made a false statement of material facts to the  
10          commission or its legal counsel.