



2021 South Dakota Legislature

Senate Bill 39

SENATE TAXATION ENGROSSED

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 **An Act to repeal the registration requirements for certain amusement devices.**

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

3 **Section 1.** That § 10-58-1 be AMENDED.

4 **10-58-1. Imposition of tax--Rate.**

5 There is imposed upon owners and operators a special amusement excise tax of
6 four and one-half percent of the gross receipts from the operation of any mechanical or
7 electronic amusement device. The tax imposed by this section is in lieu of the tax imposed
8 pursuant to chapter 10-45.

9 **Section 2.** That a NEW SECTION be added:

10 **10-58-1.1. Definition of amusement device.**

11 For the purposes of this chapter, a mechanical or electronic amusement device is

12 any coin or bill operated:

- 13 (1) Pool table;
14 (2) Foosball table;
15 (3) Air hockey table;
16 (4) Arcade game;
17 (5) Shooting gallery game;
18 (6) Dart board;
19 (7) Pinball machine; or
20 (8) Jukebox.

21 **Section 3.** That § 10-58-2 be REPEALED.

22 **10-58-2. Registration of devices.**

23 **Section 4.** That § 10-58-2.1 be REPEALED.

1 **10-58-2.1. Older devices subject to regulation--Exempt from registration**
2 **fee.**

3 **Section 5.** That § 10-58-2.2 be REPEALED.

4 **10-58-2.2. Mechanical or electronic amusement devices used exclusively at**
5 **government sponsored fairs to comply with chapter--Registration fee--Validity**
6 **of special fair registration.**

7 **Section 6.** That § 10-58-3 be AMENDED.

8 **10-58-3. Exemption from local fees and taxes.**

9 ~~Such owner or operator shall pay an annual registration fee of twelve dollars per~~
10 ~~machine. Payment of the registration fee allows the machine to be offered to the public or~~
11 ~~any person until June thirtieth. Each person tendering a registration fee shall indicate~~
12 ~~whether the machine is being operated within an incorporated municipality and which~~
13 ~~municipality. The registration fee is in lieu of municipal sales or use tax incurred on account~~
14 ~~of the sale or use of the machine and is also in lieu of all other~~ No political subdivision of
15 ~~this state may require any permits, licenses, permit fees, or license fees imposed by~~
16 ~~political subdivisions of the state for the operation of any amusement device. No political~~
17 ~~subdivision of this state may impose any municipal sales or use tax upon the sale or the~~
18 ~~operation of any amusement device.~~

19 **Section 7.** That § 10-58-4 be AMENDED.

20 **10-58-4. Collection and administration.**

21 ~~The tax and the registration fees imposed under this chapter shall be collected and~~
22 ~~administered by the Department of Revenue. The secretary of revenue shall~~ insure ensure
23 ~~that all amusement machines which~~ that ~~are available to the public are taxed~~ and
24 ~~registered.~~

25 **Section 8.** That § 10-58-5 be AMENDED.

26 **10-58-5. Disposition of tax proceeds.**

27 ~~The tax generated by this chapter~~ shall must ~~be deposited in the general fund.~~
28 ~~The registration fees collected by the Department of Revenue shall be paid within thirty~~
29 ~~days to the municipality in which the machine is located on the date the registration fee~~

1 ~~is tendered. Registration fees for machines not located within a municipality shall be paid~~
2 ~~to the state general fund.~~

3 **Section 9.** That § 10-58-6 be REPEALED.

4 **10-58-6. Display of registration--Effect of failure.**

5 **Section 10.** That § 10-58-7 be REPEALED.

6 **10-58-7. Device without registration displayed as contraband--Confiscation.**

7 **Section 11.** That § 10-58-8 be REPEALED.

8 **10-58-8. Judicial order for destruction or sale of confiscated devices--**
9 **Disposition of sale proceeds.**

10 **Section 12.** That § 10-58-10 be AMENDED.

11 **10-58-10. Classification of violations.**

12 Failure to comply with the licensing, ~~registration or tax~~ payment requirements of
13 this chapter ~~shall constitute~~ constitutes a Class 1 misdemeanor for the first offense and a
14 Class 6 felony for any subsequent offense occurring within one year of the prior offense's
15 occurrence.

16 **Section 13.** That § 10-58-11 be AMENDED.

17 **10-58-11. Exemption for video lottery machines--Gross receipts specifically**
18 **exempted.**

19 Video lottery machines licensed pursuant to § 42-7A-41 are exempt from the
20 ~~registration and tax~~ imposed by this chapter. There is specifically exempted from the
21 provisions of this chapter and from the computation of the tax imposed by it, the gross
22 receipts from video lottery machines licensed pursuant to § 42-7A-41 and operated as
23 part of a lottery operated by this state.

24 **Section 14.** That § 10-58-13 be AMENDED.

25 **10-58-13. Promulgation of rules.**

26 The secretary of revenue may promulgate rules pursuant to chapter 1-26
27 concerning+

- 1 ~~(1) Proper display of decals; and~~
- 2 ~~(2) Record-keeping~~ record-keeping requirements.