

## AN ACT

ENTITLED, An Act to prohibit smoking tobacco or carrying lighted tobacco products in certain places and to require certain persons to inform violators of the prohibition.

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

Section 1. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

No person may smoke tobacco or carry any lighted tobacco product in any public place or place of employment. A violation of this section is a petty offense.

Section 2. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

Any person that owns, manages, operates, or otherwise controls a public place or place of employment shall inform persons violating section 1 of this Act of the provisions thereof. A violation of this section is a petty offense.

Section 3. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

- (1) "Enclosed area," any space between a floor and a ceiling that is enclosed, exclusive of doorways, on all sides by permanent or temporary walls or windows;
- (2) "Place of employment," any enclosed area under the control of a public or private employer;
- (3) "Public place," any enclosed area to which the public is invited or in which the public is permitted.

Section 4. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of sections 1 to 3, inclusive, of this Act do not apply to any private residence unless the private residence is used for day care.

Section 5. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of sections 1 to 3, inclusive, of this Act do not apply to any sleeping rooms in any hotel or lodging establishment licensed pursuant to subdivision 34-18-1(6) or (7), respectively, if the rooms are rented to guests. Any sleeping room in which smoking is allowed shall be posted as a smoking room.

Section 6. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of sections 1 to 3, inclusive, of this Act do not apply to any establishment licensed pursuant to subdivision 35-4-2(4), (6), (12), or (16) that was in compliance on January 1, 2009, with, and maintains compliance with, the following requirements:

- (1) Generates ten percent or more of its annual gross income from the sale of cigars. For the purposes of this section, a cigar is any individual roll of tobacco that has a wrapper or cover consisting only of tobacco, that measures a number forty ring size or larger, and that is sold without a filter;
- (2) Has a humidor on the premises; and
- (3) Is enclosed by solid walls or windows, a ceiling, and a solid door and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas.

Any establishment meeting the requirements of this section may permit the smoking of cigars and any premium tobacco product purchased on the premises. However, no establishment may permit the smoking of any other tobacco product on the premises. The establishment shall post a

notice of the prohibition.

Any establishment meeting the requirements of this section shall annually report to the Department of Revenue and Regulation, on a form prescribed by the department, the revenue generated from the sale of cigars as a percentage of annual gross income.

Section 7. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of sections 1 to 3, inclusive, of this Act do not apply to any retail tobacco store that meets the following requirements:

- (1) Generates sixty-five percent of its annual gross income from the sale of tobacco, tobacco products, and accessories for such products;
- (2) Is enclosed by solid walls or windows, a ceiling, and a solid door that provides egress to the outdoors; and
- (3) Does not allow the consumption of alcoholic beverages on the premises.

Any retail tobacco store meeting the requirements of this section shall annually report to the Department of Revenue and Regulation, on a form prescribed by the department, the revenue generated from the sale of tobacco, tobacco products, and accessories for such products as a percentage of annual gross income.

Section 8. That § 22-36-2 be repealed.

Section 9. That § 22-36-3 be repealed.

Section 10. That § 22-36-4 be repealed.

An Act to prohibit smoking tobacco or carrying lighted tobacco products in certain places and to require certain persons to inform violators of the prohibition.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1240

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1240

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State