

Senate Daily Reader

Friday, January 18, 2002

Bills Included				
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State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0230

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 15** - 01/16/2002

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions regarding the
2 composition of the mental health planning and coordination advisory council.

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

4 Section 1. That § 27A-3-1.2 be repealed.

5 ~~— 27A-3-1.2. The council shall consist of the following who shall be appointed by and serve~~
6 ~~at the pleasure of the Governor:~~

7 ~~— (1) The secretary of the Department of Human Services, or his designee;~~

8 ~~— (2) The executive director of the South Dakota Advocacy Services;~~

9 ~~— (3) A director of a Department of Human Services approved community mental health~~
10 ~~center, whose term shall expire July 1, 1992;~~

11 ~~— (4) A qualified mental health professional who provides direct services in an approved~~
12 ~~community mental health center (not a center director), whose term shall expire~~
13 ~~July 1, 1991;~~

14 ~~— (5) A representative of the South Dakota Council of Mental Health Centers, whose term~~



- 1 shall expire July 1, 1990;
- 2 — (6) — A representative of the South Dakota Board of Regents;
- 3 — (7) — The executive director of the South Dakota Housing Development Authority, or his
- 4 designee;
- 5 — (8) — The state court administrator, or his designee;
- 6 — (9) — A qualified mental health professional from a private, nonprofit service-providing
- 7 agency other than a community mental health center, whose term shall expire July 1,
- 8 1991;
- 9 — (10) — The administrator of the South Dakota Human Services Center or his designee;
- 10 — (11) — A representative of a statewide mental health consumer organization, whose term
- 11 shall expire July 1, 1991;
- 12 — (12) — A family representative of an adult (eighteen years or over) severely mentally ill
- 13 individual, whose term shall expire July 1, 1991;
- 14 — (13) — A family representative of an adult (eighteen years or over) severely mentally ill
- 15 individual, whose term shall expire July 1, 1991;
- 16 — (14) — A family representative of a child (under eighteen years) severely mentally ill
- 17 individual, whose term shall expire July 1, 1992;
- 18 — (15) — A primary consumer of mental health services, whose term shall expire July 1, 1990;
- 19 — (16) — A primary consumer of mental health services, whose term shall expire July 1, 1991;
- 20 — (17) — A primary consumer of mental health services, whose term shall expire July 1, 1992;
- 21 — (18) — A representative of a statewide family support and advocacy group whose term shall
- 22 expire July 1, 1990;
- 23 — (19) — A public educator in a kindergarten through twelfth grade program (not a provider
- 24 or state employee), whose term shall expire July 1, 1991;

1 ~~—(20) A representative of consumers at large (not a provider or state employee), whose term~~
2 ~~shall expire July 1, 1992;~~

3 ~~—(21) A representative of consumers at large (not a provider or state employee), whose term~~
4 ~~shall expire July 1, 1990;~~

5 ~~—(22) The secretary of the Department of Social Services, or his designee.~~

6 ~~—Future terms of those members with established terms shall be three years.~~

7 Section 2. That § 27A-3-1.1 be amended to read as follows:

8 27A-3-1.1. There is created the Mental Health Planning and Coordination Advisory Council
9 which shall be appointed by and serve at the pleasure of the Governor. The council shall be
10 assigned to the Department of Human Services. Technical assistance and staff support shall be
11 provided to the council by the Department of Human Services. The secretary of human services
12 shall be responsible for the coordination of activities between the advisory council and the
13 Department of Human Services.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0244

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 21** - 01/16/2002

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to prohibit tax stamping or payment of taxes on cigarettes
2 or roll your own tobacco products produced by certain nonparticipating manufacturers and
3 to provide for the creation of a directory for compliant nonparticipating manufacturers.

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

5 Section 1. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No distributor or wholesaler may, directly or indirectly, affix a South Dakota cigarette tax
8 stamp or imprint to a package of cigarettes, or pay South Dakota cigarette tax on roll-your-own
9 tobacco product, manufactured or sold by a tobacco product manufacturer unless:

- 10 (1) The manufacturer is a participating manufacturer as that term is defined in subdivision
11 10-50B-7(1); or
12 (2) The manufacturer is a nonparticipating manufacturer in compliance with subdivision
13 10-50B-7(2).

14 Section 2. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 The secretary of revenue shall annually, no later than May fifteenth, transmit to all licensed
2 distributors and wholesalers, and post on the Department of Revenue's website, a directory of
3 nonparticipating tobacco product manufacturers determined by the secretary to be in compliance
4 with subdivision 10-50B-7(2). The secretary of revenue shall amend the directory on the
5 Department of Revenue's website, as necessary, to include any nonparticipating tobacco product
6 manufacturer determined to be in compliance with subdivision 10-50B-7(2) after May fifteenth,
7 or to remove any nonparticipating tobacco product manufacturer subsequently determined not
8 to be in compliance with subdivision 10-50B-7(2). The secretary of revenue may require
9 distributors, wholesalers, and nonparticipating tobacco product manufacturers to submit such
10 information as the secretary may determine is necessary to enable the secretary to determine
11 whether a nonparticipating tobacco product manufacturer is in compliance with subdivision 10-
12 50B-7(2).

13 Section 3. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Any nonparticipating tobacco product manufacturer excluded or removed from the directory
16 may request a contested case hearing before the secretary. A request for hearing shall be made
17 within sixty days of the exclusion or removal or the date the manufacturer determined it was in
18 full compliance with this chapter and chapter 10-50B, and shall contain the evidence supporting
19 the manufacturer's compliance with subdivision 10-50B-7(2). At the hearing, the secretary shall
20 determine whether the nonparticipating tobacco product manufacturer is in compliance with
21 subdivision 10-50B-7(2), and whether the manufacturer should be listed in the directory.

22 Section 4. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Any stamped cigarettes or roll-your-own tobacco on which taxes have been paid in violation

1 of this Act are contraband goods and may be legally seized, without a warrant, by the secretary
2 of revenue, department agents or employees, or by any law enforcement officer of this state if
3 directed by the secretary to do so. Any tobacco products seized and forfeited under this section
4 shall be destroyed. The Department of Revenue may allow a credit for tax paid on contraband
5 cigarettes and roll-your-own product returned to the manufacturer or distributor from which they
6 were purchased.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0207

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 26 - 01/15/2002

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to authorize a civil penalty for securities violations by
2 registered or unregistered persons or entities.

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

4 Section 1. That subsection (M) of § 47-31A-204(a) be repealed.

5 ~~—————(M) A civil penalty levied under subsection (a) shall not exceed ten thousand dollars~~
6 ~~per violation per person. All administrative fines received shall be deposited in~~
7 ~~the state general fund.~~

8 Section 2. That § 47-31A-408 be amended to read as follows:

9 47-31A-408. Whenever it appears to the director that any person has engaged or is about to
10 engage in any act or practice constituting a violation of any provision of this chapter, or any rule
11 or order hereunder, ~~he may in his discretion bring either or both of the following remedies~~ the
12 director may do one or more of the following:

13 (1) Issue a cease and desist order, with or without prior hearing, against the person or
14 persons engaged in the prohibited activities, directing them to cease and desist from



1 further illegal activities; ~~or~~

2 (2) Bring an action in the circuit court to enjoin the acts or practices to enforce
3 compliance with this chapter, or any rule or order hereunder; or

4 (3) Impose by order and collect a civil penalty against any person found in an
5 administrative action to have violated any provision of this chapter, or any rule or
6 order issued under this chapter, in an amount not to exceed ten thousand dollars per
7 violation per person. The director may bring actions to recover penalties pursuant to
8 this subdivision in circuit court. All civil penalties received shall be deposited in the
9 state general fund.

10 Upon a proper showing a permanent or temporary injunction, restraining order or writ of
11 mandamus shall be granted and a receiver or conservator may be appointed for the defendant or
12 defendant's assets. In addition, upon a proper showing by the director, the court may enter an
13 order of rescission, restitution or disgorgement directed to any person who has engaged in any
14 act constituting a violation of any provision of this chapter, or any rule or order hereunder. The
15 court may not require the director to post a bond.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0217

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 46** - 01/16/2002

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to controlled
2 substances.

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

4 Section 1. That § 34-20B-17 be amended to read as follows:

5 34-20B-17. Any of the following opiates, including their isomers, esters, ethers, salts, and
6 salts of isomers, esters and ethers, is included in Schedule II, unless specifically excepted,
7 whenever the existence of such isomers, esters, ethers, and salts is possible within the specific
8 chemical designation:

- 9 (1) Alphaprodine;
- 10 (2) Anileridine;
- 11 (3) Bezitramide;
- 12 (4) Diphenoxylate;
- 13 (5) Fentanyl;
- 14 (6) Isomethadone;



- 1 (7) Levomethorphan;
- 2 (8) Levorphanol;
- 3 (9) Metazocine;
- 4 (10) Methadone;
- 5 (11) Methadone-intermediate, 4-cyano-2-dimethylamine-1, 4-diphenyl butane;
- 6 (12) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
- 7 acid;
- 8 (13) Pethidine;
- 9 (14) Pethidine-intermediate, A, 4-cyano-1-methyl-4-phenylpiperidine;
- 10 (15) Pethidine-intermediate, B, ethyl-4-phenylpiperidine-4-carboxylate;
- 11 (16) Pethidine-intermediate, C, 1-methyl-4-phenylpiperidine- 4-carboxylic acid;
- 12 (17) Phenazocine;
- 13 (18) Piminodine;
- 14 (19) Racemethorphan;
- 15 (20) Racemorphan;
- 16 (21) Sufentanil;
- 17 (22) Alfentanil;
- 18 (23) Carfentanil;
- 19 (24) Levo-alpha-acetylmethadol, also known as levo-alpha- acetylmethadyl acetate or
- 20 LAAM;
- 21 (25) Remifentanil.

22 Section 2. That § 34-20B-25 be amended to read as follows:

23 34-20B-25. The following are included in Schedule IV:

- 24 (1) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and

- 1 clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified
2 estrogens);
- 3 (2) Clonazepam;
- 4 (3) Clorazepate;
- 5 (4) Diazepam;
- 6 (4A) Flunitrazepam;
- 7 (5) Flurazepam;
- 8 (6) Mebutamate;
- 9 (7) Oxazepam;
- 10 (8) Prazepam;
- 11 (9) Lorazepam;
- 12 (10) Triazolam;
- 13 (11) Any substance which contains any quantity of a benzodiazepine, or salt of
14 benzodiazepine, except those substances which are specifically listed in other
15 schedules;
- 16 (12) Buprenorphine;
- 17 (13) Cathine;
- 18 (14) Fencamfamine;
- 19 (15) Fenproporex;
- 20 (16) Mefenorex;
- 21 (17) Pyrovalerone;
- 22 (18) Propoxyphene;
- 23 (19) Pentazocine;
- 24 (20) Diethylpropion;

- 1 (21) Ethchlorvynol;
- 2 (22) Ethinamate;
- 3 (23) Fenfluramine;
- 4 (24) Mazindol;
- 5 (25) Mephobarbital;
- 6 (26) Methohexitol;
- 7 (27) Paraldehyde;
- 8 (28) Pemoline;
- 9 (29) Petrichloral;
- 10 (30) Phentermine;
- 11 (31) Barbital;
- 12 (32) Phenobarbital;
- 13 (33) Meprobamate;
- 14 (34) Zolpidem;
- 15 (35) Butorphanol;
- 16 (36) Modafinil, including its salts, isomers, and salts of isomers;
- 17 (37) Sibutramine;
- 18 (38) Zaleplon;
- 19 (39) Dichloralphenazone.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0255

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 48** - 01/16/2002

Introduced by: The Committee on State Affairs at the request of the Department of
Corrections

1 FOR AN ACT ENTITLED, An Act to expand the Board of Pardons and Paroles to nine
2 members.

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

4 Section 1. That § 24-13-1 be amended to read as follows:

5 24-13-1. The Board of Pardons and Paroles shall consist of ~~six~~ nine members. ~~Two~~ Three
6 members shall be appointed by the Governor; at least one shall be an attorney. ~~Two~~ Three
7 members shall be appointed by the attorney general; ~~one of whom~~ at least one shall be an
8 attorney. ~~Two~~ Three members shall be appointed by the Supreme Court; ~~one of whom~~ at least
9 one shall be an attorney. Each member of the board shall be a resident of South Dakota and be
10 appointed with the advice and consent of the Senate.

11 Section 2. That § 24-13-2 be amended to read as follows:

12 24-13-2. The members of the board shall serve for terms of four years. Members are eligible
13 for reappointment. The Governor, the attorney general, and the Supreme Court each shall
14 appoint ~~two~~ three members, whose terms shall expire on the third Monday in January of the



1 fourth year after appointment. Each member shall serve until ~~his~~ a successor takes office as
2 provided by law. In case of a vacancy, the appointing power shall make an interim appointment
3 to expire at the end of the next legislative session.