

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

872H0466

HOUSE ENGROSSED NO. **HB 1131** - 01/24/2002

Introduced by: Representatives Michels, Abdallah, Flowers, Juhnke, Monroe, Olson (Mel),
and Sutton (Duane) and Senators McCracken, Bogue, Daugaard, and Moore

1 FOR AN ACT ENTITLED, An Act to provide for civil recovery of unpaid property and
2 services.

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

4 Section 1. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The owner of a motor vehicle that receives motor fuel that was not paid for is liable to the
7 motor fuel retailer for the cost of the motor fuel received. In addition, the motor fuel retailer may
8 impose a maximum service charge of thirty dollars for collection costs if the service charge was
9 conspicuously displayed on the premises where the motor fuel was received.

10 Section 2. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
11 as follows:

12 If a motor fuel retailer records the license plate number of the motor vehicle that receives
13 motor fuel that was not paid for, the retailer may contact any law enforcement officer and
14 provide the license plate number in writing and the law enforcement officer shall provide the
15 motor vehicle owner's address, recorded pursuant to § 32-5-3, in order for the retailer to mail



1 a notice and demand of payment for motor fuel.

2 Section 3. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The notice and demand of payment for motor fuel shall include the name, address, and license
5 plate number of the motor vehicle owner; the date the act occurred; the unpaid dollar amount;
6 the service charge; the type of motor fuel; a citation of sections 1 and 4 of this Act; and the
7 employee's signature. An affidavit of service by mailing shall be retained by the motor fuel
8 retailer.

9 Section 4. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 If the motor fuel retailer does not receive payment within thirty-three days after mailing the
12 notice and demand for payment for motor fuel, the vehicle owner is also liable for a civil penalty
13 of one hundred dollars, or the price of the unpaid motor fuel, whichever is greater.

14 Section 5. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 The motor vehicle owner may dispute the motor fuel retailer's claim by sending written notice
17 to the retailer during the thirty-three day period in section 4 of this Act. The retailer shall cease
18 all collection efforts upon receipt of the notice. The retailer may collect the price of the motor
19 fuel, the service charge, and the civil penalty only pursuant to a judgement from a court of law.

20 Section 6. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 Any person who obtains property or services from a hotel or restaurant without paying for
23 it is liable to the retailer for the cost of the property or service. In addition, the retailer may
24 impose a maximum service charge of thirty dollars for collection costs if the service charge was

1 conspicuously displayed on the premises.

2 Section 7. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 If the retailer records the motor vehicle license plate number of the person who obtained
5 property or services without paying, the retailer may contact any law enforcement officer and
6 provide the license plate number in writing and the law enforcement officer shall provide the
7 motor vehicle owner's address, recorded pursuant to § 32-5-3, in order for the retailer to mail
8 a notice and demand of payment for property or services.

9 Section 8. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 The notice and demand of payment for property or services shall include the name, address,
12 and license plate number of the motor vehicle owner; the date the act occurred; the unpaid dollar
13 amount; the service charge; a citation of sections 6 and 9 of this Act; and the employee's
14 signature. An affidavit of service by mailing shall be retained by the retailer.

15 Section 9. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 If the retailer does not receive payment within thirty-three days after mailing the notice and
18 demand for payment for property or services, the vehicle owner is also liable for a civil penalty
19 of one hundred dollars, or the price of the unpaid property or services, whichever is greater.

20 Section 10. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 Any person may dispute the retailer's claim by sending written notice to the retailer during
23 the thirty-three day period in section 9 of this Act. The retailer shall cease all collection efforts
24 upon receipt of the notice. The retailer may collect the price of the property or service, the

1 service charge, and the civil penalty only pursuant to a judgment from a court of law.