

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

643H0531

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 118** - 01/28/2002

Introduced by: Senators McCracken, Diedtrich (Elmer), Ham, and McIntyre and
Representatives Peterson (Bill), Frost, Glenski, and Van Etten

1 FOR AN ACT ENTITLED, An Act to prohibit smoking in public places.

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

3 Section 1. That § 22-36-2 be amended to read as follows:

4 22-36-2. No person may smoke tobacco or carry any lighted tobacco product in the
5 following places:

6 ~~—(1)— Any hospital or medical or dental clinic;~~

7 ~~—(2)— Any nursing facility;~~

8 ~~—(3)— Any public library, museum, indoor theater, or concert hall;~~

9 ~~—(4)— Any elementary or secondary school building;~~

10 ~~—(5)— Any public conveyance;~~

11 ~~—(6)— Any jury room;~~

12 ~~—(7)— Any elevator;~~

13 ~~—(8)— Any registered or unregistered day care program, day care center, day care
14 cooperative, or family day care home governed by chapter 26-6 during the time in~~



1 ~~which children who are not family members of the day care provider are receiving~~
2 ~~care.~~

3 ~~—This section does not prohibit the smoking of tobacco or tobacco products in the places~~
4 ~~named in this section, if the smoking is confined to areas designated as smoking areas any public~~
5 ~~place or place of employment.This section does not apply to any sleeping room in a lodging~~
6 ~~establishment as defined in § 34-18-1, to any on-sale licensee pursuant to chapter 35-4, to any~~
7 ~~video lottery licensed establishment pursuant to chapter 42-7A, to any licensee pursuant to~~
8 ~~chapter 42-7B, or to any tobacco or packaged liquor store if the store is primarily used for the~~
9 ~~sale of tobacco or alcoholic beverages, or both, and the sale of other products is merely~~
10 ~~incidental.~~

11 A violation of this section is a petty offense.

12 Section 2. For the purposes of this Act, a public place is any enclosed indoor area to which
13 the public is invited or to which the public is permitted, including any hospital or medical or
14 dental clinic; any nursing facility; any public library, museum, theater, or concert hall; any
15 elementary or secondary school building; any public conveyance; any jury room; any elevator;
16 any reception area; any restaurant; any retail service establishment; any retail store; and any
17 registered or unregistered day care program, day care center, day care cooperative, or family day
18 care home governed by chapter 26-6 during the time in which children who are not family
19 members of the day care provider are receiving care. A private residence is not a public place
20 unless it is used for day care.

21 Section 3. For the purposes of this Act, a place of employment is any enclosed indoor area
22 under the control of a public or private employer, including work areas, employee lounges and
23 restrooms, conference and class rooms, employee cafeterias, and hallways. A private residence
24 is not a place of employment unless it is used for day care.