

AN ACT

ENTITLED, An Act to impose a gross receipts tax on certain visitor-related businesses.

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

Section 1. Terms used in this Act mean:

- (1) "Lodging establishment," any building, structure, property, or premise kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are furnished to transient guests. The following constitute lodging establishments: bed and breakfast inns, boarding houses, bungalows cabins, condominiums, cottages, dude ranches, guest houses, guest ranches, hostels, hotels, inns, lodges, motels, resorts, tourist homes, timeshare rentals, vacation home rentals, and villas;
- (2) "Campground," any property or premise kept, used, maintained, advertised, or held out to the public to be a place where sites are available for placing of tents, campers, trailers, mobile homes, or other mobile accommodations to transient guests. Campgrounds include city, county, and state-owned campgrounds, as well as concessionaires or contractors who manage or operate publicly owned campgrounds. The following constitute campgrounds: campgrounds, camping cabins, camping resorts, commercial picnic grounds, organizational camps, park units, recreational vehicle parks, trailer parks, and youth camps;
- (3) "Visitor attraction," any business establishment that offers recreation, entertainment, or interpretation of natural or cultural history. The following constitute visitor attractions: aerial tramways, amusement parks, animal exhibits, animal shows, antique car exhibits, antique exhibits, arboreta, aquariums, batting cages, botanical gardens, bumper boats, bumper cars, bungee jumps, carnival rides, chuck wagon suppers, commercial playgrounds, go-cart raceways, gold mines, golf driving ranges, historic sites, human mazes, hunting preserves, miniature golf courses, museums, music shows, observation

towers, outdoor dramas, pitch 'n putt golf courses, playhouses, racetracks, recreational gold mining, reptile exhibits, restorations, scenic railroads, shooting preserves, show caves, ski areas, spectator events, water slides, wave pools, wax figure exhibits, and zoological gardens. A visitor attraction includes any business which is being conducted on the site of another visitor attraction;

(4) "Recreational service," any business establishment that provides leisure or recreational experiences. The following constitute recreational services: aerial sightseeing tours, amusement rides, bath houses, carriage rides, climbing guides, day camps, fishing guides, fishing ponds, golf driving ranges, hunting guides, outfitters, pack trains, private beaches, river rafting, saddle horse rides, sightseeing guides, sightseeing tours, shooting galleries, shooting ranges, skeet ranges, ski instruction, ski lift tickets, ski trails, spas, trail rides, trap ranges, tour bus excursions, and youth camps;

(5) "Recreational equipment rental," include all items rented for twenty-eight days or less whose primary purpose is recreational use. Rental, under such circumstances, of the following constitute recreational equipment rentals: all-terrain vehicles, beach chairs, bicycles, bumper boats, bumper cars, campers, camping trailers, firearms, fishing equipment, flotation devices, go carts, golf clubs, hunting dogs, hunting equipment, mopeds, motor coaches, motorcycles, pack animals, recreational courts and equipment, recreational gold mining equipment, recreational vehicles, recreational water equipment, rock climbing gear, roller blades, saddle horses, skis, snowboards, snowmobiles, snowmobile trailers, snowshoes, watercraft, and watercraft trailers;

(6) "Spectator event," any organized activity meant for entertainment or education and open to the public. The following constitute spectator events: air shows, auto races, auto shows, balloon shows, boat races, car rallies, carnivals, circuses, concerts, dance festivals, draft

horse contests, ethnic festivals, exhibitions, expositions, fairs, greyhound races, horse races, horse shows, monster truck shows, motorcycle expositions, motorcycle races, music festivals, rodeos, sporting events, stage performances, threshing bees, tractor pull contests, and water-skiing shows. A spectator event includes any business which is conducted on the site of another spectator event;

- (7) "Visitor intensive business," any antique shop, book store, candy store, flea market, gift shop, indigenous arts and crafts shop, jewelry, lapidary shop, leather goods shop, marina, novelty shop, pottery shop, rock shop, souvenir shop, and tee shirt shop if fifty percent or more of annual total receipts are derived from the sale of tangible personal property, during the months of June, July, August, and September. No postsecondary, college, and university book store is, however, included.

Section 2. There is hereby imposed a tax of one percent on the gross receipts from any lodging establishment, campground, motor vehicle rental, visitor attraction, recreational equipment rental, recreational service, spectator event, and visitor-intensive business. The tax imposed by this section on the gross receipts of any visitor-intensive business shall apply to the gross receipts received by such business during the months of June, July, August, and September. The tax imposed by this section is in addition to any other tax imposed by chapters 10-45 and 10-46. Tangible personal property, services, and admissions are subject to the tax imposed by this section only if subject to tax by chapters 10-45 and 10-46.

Section 3. The revenue from the tax imposed by section 2 of this Act shall be deposited in the tourism promotion fund created in § 1-42-31.

Section 4. The tax imposed by section 2 of this Act on any lodging establishment applies only to the gross receipts from the rental of rooms by a lodging establishment.

Section 5. The tax imposed by section 2 of this Act on any campground applies to the gross

receipts from the rental of campground space.

Section 6. The tax imposed by section 2 of this Act applies to the gross receipts from admission to a visitor attraction and from the sale of tangible personal property, services, parking, or transportation at a visitor attraction.

Section 7. The tax imposed by section 2 of this Act applies to the gross receipts from admission to a spectator event and from the sale of tangible personal property, services, parking, or transportation at a spectator event.

Section 8. Gross receipts from the rental of rooms or sites at a lodging establishment or campground owned by nonprofit religious, educational, or youth organization are exempt from the tax imposed by section 2 of this Act if rented to a member of such organization.

Section 9. The tax imposed by section 2 of this Act shall be collected and administered by the Department of Revenue.

Section 10. Any person who is subject to the tax imposed by this Act shall make a return and remittance to the Department of Revenue on forms prescribed and furnished by the department in the following manner:

- (1) Any person, whose tax liability is one thousand dollars or more annually, shall file the return and remit the tax on or before the twentieth day of the month following each monthly period;
- (2) Any person, whose tax liability is less than one thousand dollars annually, shall file the return and remit the tax on or before the last day of the month following each two-month period; and
- (3) Any person, whose tax liability is one thousand dollars or more annually and who remits the tax by electronic transfer to the state, shall file the return by electronic means on or before the twenty-third day of the month following each monthly period and remit the tax

on or before the second to the last day of the month following each monthly period.

The secretary of revenue may grant an extension of not more than five days for filing a return and remittance. Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return or remittance is not made on time.

Section 11. The secretary of revenue may require or allow some returns and remittances to be filed on a monthly, bimonthly, semiannual, or annual basis and the return and remittance is due the last day of the month following the reporting period. For persons issued a temporary or seasonal sales tax permit pursuant to chapter 10-45, the returns and remittances may be required at a time determined by the secretary. Section 10-59-6 applies to returns and payments under this section.

Section 12. The definitions, administrative, collection, and enforcement provisions of chapters 10-45 and 10-46 apply to the tax imposed by this Act, where applicable.

Section 13. The secretary of revenue may promulgate rules pursuant to chapter 1-26 concerning:

- (1) Licensing, including bonding and filing license applications;
- (2) The filing of returns and payment of the tax;
- (3) Determining the application of the tax and exemptions;
- (4) Taxpayer record-keeping requirements; and
- (5) Determining auditing methods.

Section 14. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this Act is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this Act within thirty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by section 13 of this Act or refuses to exhibit these records to the secretary of revenue or the secretary's agents for the purpose of

examination is guilty of a Class 1 misdemeanor;

- (4) Fails to file a return required by this Act within thirty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Willfully violates any rule of the secretary of revenue for the administration and enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or
- (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-month period is guilty of a Class 6 felony.

Section 15. That § 10-59-1 be amended to read as follows:

10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B, 10-47B, 10-52, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

Section 16. That § 10-45-69.1 be repealed.

Section 17. That § 10-45-69.2 be repealed.

Section 18. That § 10-45-69.3 be repealed.

Section 19. That § 10-45-69.4 be repealed.

Section 20. That § 10-45-69.5 be repealed.

Section 21. That § 10-45-69.6 be repealed.

Section 22. That § 10-45-69.7 be repealed.

Section 23. That § 10-45-69.8 be repealed.

Section 24. That § 10-45-69.9 be repealed.

Section 25. That § 10-45-69.10 be repealed.

Section 26. That § 10-45-91 be amended to read as follows:

10-45-91. Notwithstanding the provisions of § 10-45-13, admissions to rodeos and rodeo related

activities and events are subject to the tax imposed by § 10-45-8 and section 2 of this Act.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1002

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. 1002
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