

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

583Y0611

SENATE BILL NO. 158

Introduced by: Senators Heinert, Frerichs, and Killer and Representatives Lesmeister,
Bartling, Bordeaux, and Smith

1 FOR AN ACT ENTITLED, An Act to impose a tariff on certain pipelines carrying crude oil and
2 to create a crude oil pipeline compensation fund that may be used in the event of a crude oil
3 spill.

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

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 Terms used in this Act mean:

- 7 (1) "Barrel," a barrel is 42 U.S. gallons measured at 60 degrees Fahrenheit;
- 8 (2) "Crude oil," any unrefined liquid petroleum and other hydrocarbons. Crude oil may
9 range in density from very light to very heavy and in color from yellow to black, may
10 have a paraffin, asphalt, or mixed base, and may include chemicals and elements
11 which are considered toxic and pollutants if released into the environment;
- 12 (3) "Crude oil pipeline company," any person that is transporting crude oil;
- 13 (4) "Department," the Department of Revenue;
- 14 (5) "Secretary," the secretary of the Department of Revenue.

15 Section 2. That the code be amended by adding a NEW SECTION to read:



1 Any crude oil pipeline company using pipe made of steel not manufactured in the United
2 States shall pay a tariff of twenty percent on the value of each length of pipe not manufactured
3 in the United States used in this state. Any crude oil pipeline company that transports on average
4 less than ten thousand barrels of crude oil per day by pipeline is exempt from the tariff and
5 provisions imposed by this Act. The tariff established in this Act is in addition to any sales, use,
6 or excise tax.

7 Section 3. That the code be amended by adding a NEW SECTION to read:

8 There is hereby created in the state treasury the crude oil pipeline compensation fund. The
9 secretary shall deposit the tariff collected pursuant to this Act in the crude oil pipeline
10 compensation fund. The fund may provide reimbursement of reasonable and necessary costs for
11 any corrective action in excess of ten thousand dollars for a crude oil release that may occur.
12 Reimbursement may include costs of an approved corrective action and third-party claims for
13 crude oil releases.

14 The fund shall be a participating fund and shall be credited for all interest earned on fund
15 balances. Expenditures from the fund may be made only upon approval by the Legislature. If
16 the balance in the fund exceeds thirty million dollars, the secretary shall stop collecting the
17 tariff. However, if the balance of the fund falls below five million dollars, the secretary shall
18 resume the collection of the tariff.

19 Section 4. That the code be amended by adding a NEW SECTION to read:

20 Any person who holds a license issued pursuant to this Act or who is a person subject to the
21 tariffs imposed by this Act shall, except as otherwise provided in this section, file a return, and
22 pay any tariff due, to the department before the twentieth day of the month following each
23 monthly period. The return shall be filed on forms prescribed and furnished by the department.
24 The secretary may grant an extension of not more than five days for filing a return and

1 remittance. Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if
2 a return or remittance is not made on time.

3 Section 5. That the code be amended by adding a NEW SECTION to read:

4 Any crude oil pipeline company subject to the tariff shall keep records of the manufacturer
5 of the pipe used, the location where the steel pipe is buried in the state for the distance of the
6 pipeline, and of all crude oil transported through the pipeline. The records are, at all times
7 during business hours of the day, subject to inspection by the department to determine the
8 amount of tariffs due. The records shall be preserved for a period of fifteen years.

9 Section 6. That the code be amended by adding a NEW SECTION to read:

10 The secretary may promulgate rules, pursuant to chapter 1-26, concerning:

- 11 (1) License applications;
- 12 (2) The filing of returns and payment of the tariff;
- 13 (3) Determining the application of the tariff;
- 14 (4) Record-keeping requirements; and
- 15 (5) Determining auditing methods.

16 Section 7. That the code be amended by adding a NEW SECTION to read:

17 Any person who:

- 18 (1) Makes any false or fraudulent return in attempting to defeat or evade the tariff is
19 guilty of a Class 6 felony;
- 20 (2) Fails to pay the tariff due under this Act within sixty days from the date the tariff
21 becomes due is guilty of a Class 1 misdemeanor;
- 22 (3) Fails to keep the records required by this Act or refuses to exhibit these records to the
23 department for the purpose of examination is guilty of a Class 1 misdemeanor;
- 24 (4) Fails to file a return required by this Act within sixty days from the date the return

1 is due is guilty of a Class 1 misdemeanor;

2 (5) Engages in business as a crude oil pipeline company without obtaining a license is
3 guilty of a Class 6 felony.

4 For purposes of this section, the term, crude oil pipeline company, includes corporate
5 officers having control, supervision of, or charged with the responsibility for making returns or
6 payments pursuant to this Act.

7 Section 8. That the code be amended by adding a NEW SECTION to read:

8 If a corporation subject to the tariff imposed by this Act fails for any reason to file the
9 required returns or to pay the tariff due, any of its officers having control, or supervision of, or
10 charged with the responsibility for making such returns and payments are personally liable for
11 such failure. The dissolution of a corporation does not discharge an officer's liability for a prior
12 failure of the corporation to make a return or remit the tariff due. The sum due for such a
13 liability may be assessed and collected as provided by law.

14 If any responsible corporate officer elects not to be personally liable for the failure to file
15 the required returns or to pay the tariff due, the corporation shall provide the department with
16 a surety bond or certificate of deposit as security for payment of any tariff that may become due.
17 The bond or certificate of deposit provided for in this section shall be in an amount equal to the
18 estimated annual tariff imposed by the Act.

19 Section 9. That the code be amended by adding a NEW SECTION to read:

20 Any real and personal property owned by a crude oil pipeline company is subject to the real
21 and personal property taxes levied by the state, counties, municipalities, townships, or other
22 political subdivisions of the state.