

Monday, February 18, 2019

Halftime Report

Overview: Thursday, February 14 was Legislative Day number 24 out of a maximum allowed 40 days. This means that the 2019 Legislative Session has reached the halfway point on the calendar. In reality, there is no halftime during a legislative session, just like there isn't one during a root canal, or heck, even a basketball game where they stop halfway through but everyone knows the real action takes place during last two minutes. Alas, we digress.

Bill Summary

There have been 640 bills introduced (not including commemorations and resolutions).

- 38 – have been signed by the Governor
- 17 – are on the Governor's desk
- 20 – have been withdrawn

HB 1173 – Jensen (Kevin)(R-Canton) – permit the possession of firearms by certain employees

Bill Hearing Scheduled – HB 1173 will have a hearing before the House State Affairs Committee on Wednesday, February 20th. The meeting will begin at 7:30 am.

The bill overrides property rights that allow businesses to maintain a “no firearms” policy on their property and in their buildings. This bill establishes a right to take a firearm onto a parking lot if it remains locked in the car. Unlike previous bills HB 1173 has language protecting the rights of those who bring firearms onto to parking lot by saying they cannot be terminated. HB 1173 has been assigned to House State Affairs Committee.

HELP NEEDED – Here are the members of the House State Affairs Committee. Please call, write or send an owl to urge them to vote NO on HB 1173. Chamber members are encouraged to send faxes (assuming you still have one of those around or an “app” for that) to the Chamber office – 605-224-7198 and the staff will deliver them to the legislature’s mail room where they will be placed with each legislator’s mail (which they have been seen actually reading).

- **Anderson, David (R);**

- Beal, Arch (R);
- Dennert, Drew (R);
- Diedrich, Michael (R);
- Goodwin, Tim (R);
- Gosch, Spencer (R);
- Hansen, Jon (R);
- Haugaard, Steven (R);
- Jensen, Kevin (R);
- McCleerey, Steven (D);
- Peterson, Kent (R);
- Qualm, Lee (R); Chair
- Smith, Jamie (D)

Update - SB 117 – Nesiba (D- Sioux Falls) – Driver’s manuals and tests in non-English

This is the bill that has been discussed in previous Capitol-isms and would allow the driver’s license manual, and perhaps even the exam, to be published in Spanish. The bill had its hearing a week ago before the Senate Transportation Committee. SB 117 did pass out of committee on a vote of 5 yea - to - 1 nay.

Governor Noem spoke to the Sioux Falls Chamber during Sioux Falls Day last Wednesday and expressed her opposition to the bill because she is worried about the cost and is also constrained by the state law that requires all official documents to be in English. One of her senior advisors has been assigned to work with the groups that are supporting SB 117 and there may be some progress toward the main goal of the bill.

In the meantime, Senator Stace Nelson made it clear that he would ask for a fiscal note which would delay the vote. To get the drop on this move, the prime sponsor requested a fiscal note a week ago Friday.

Floor count suggests the bill still needs about four or five votes to survive the Senate.

SB 120 – Greenfield (R-Clark) - modify the time period allowable for certain covenants not to compete.

When a person starts looking at all the laws that regulate businesses, it gets to be a long and rather mind boggling list. One of the things that is regulated by statute is the length of a “non-compete” clause in a person’s contract.

A good number of industries use non-compete clauses to keep someone from taking advantage of the training they receive to go off and open their own business and, worst of all, start poaching customers they met while working for the business that gave them the training in the first place.

Currently, South Dakota law limits these non-compete clauses to a two year maximum. Senator Greenfield’s bill reduces the allowed time for a “non-compete” agreement from two years to one year. The committee removed a second section dealing with insurance and passed the bill to the floor on a vote of 4-Yea to 3-Nay.

The Board of Directors for the South Dakota Chamber of Commerce and Industry voted to remain neutral on this bill. Capitol-ism wanted to make sure the membership was aware of it.

Here is the key language for SB 120:

Section 1. That § 53-9-11 be amended to read:

53-9-11. An employee may agree with an employer at the time of employment or at any time during his the employment not to engage directly or indirectly in the same business or profession as that of his the employer for any period not exceeding two years one year from the date of termination of the agreement and not to solicit existing customers of the employer within a specified county, first or second class municipality, or other specified area for any period not exceeding two years one year from the date of termination of the agreement, if the employer continues to carry on a like business therein.

Section 2. This Act does not affect any contract entered into before the effective date of this Act.

Bill List

The following is list of bills being followed by the South Dakota Chamber. The complete bill list is available at www.sdlegislature.gov.

Bill	Title	
	HB 1040	establish certain provisions regarding the opportunity scholarship program.

	HB 1041	provide for the carrying of a concealed pistol without a permit.
	HB 1050	revise certain provisions regarding the use and possession of scanning devices and reencoders.
	HB 1056	prohibit certain local ordinances regarding firearms.
	HB 1066	require students to take a citizenship test before graduating from high school.
	HB 1074	provide a privilege for journalists and newscasters regarding refusal to disclose information.
	HB 1103	establish a lemon law for certain farm machinery.
	HB 1111	provide for professional or occupational licensure for certain active duty military personnel and spouses.
	HB 1125	create a property tax relief fund and to provide for the transfer of certain unobligated cash balances.
	HB 1139	repeal provisions regarding maximum taxes levied by a school district for capital outlay.
	HB 1165	establish the South Dakota prepaid college program and to make an appropriation therefor.
	HB 1173	permit the possession of firearms by certain employees.
	HB 1272	provide for electronic and remote notarization.
	SB 9	provide for the Servicemember Firearms Protection Act.
	SB 12	revise certain provisions pertaining to the disqualification of commercial driver license holders for failure to consent chemical analyses.
	SB 36	revise the membership of the State Workers' Compensation Advisory Council.
	SB 37	revise certain provisions regarding association health plans.

	SB 38	provide for the carrying of a concealed pistol without a permit.
	SB 47	repeal and revise certain provisions regarding permits to carry a concealed pistol.
	SB 59	revise certain provisions regarding public records.
	SB 86	provide for calculations of sales tax revenues from sellers located outside of the state.
	SJR 2	Proposing and submitting to the voters an amendment to the Constitution of the State of South Dakota, providing for wagering on sporting events.
	SJR 5	Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, relating to the authorization of certain games of chance in the City of Yankton.

Join us for Business Day at the Legislature Thursday, February 21, 2019. [**Click here**](#) for details and registration.

Thank you for your support of the South Dakota Chamber of Commerce & Industry.