State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0329

HOUSE BILL NO. 1009

Introduced by: The Committee on Health and Human Services at the request of the Board of Pharmacy

FOR AN ACT ENTITLED, An Act to repeal certain provisions relating to licenses issued by the Board of Pharmacy.

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

Section 1. That § 34-20-7 be repealed.

~~34-20-7. The provisions of §§ 34-20-2 to 34-20-5, inclusive, as to registration of sales of poisons shall not apply to sales by wholesale dealer to registered pharmacists, practicing physicians, dentists, or veterinary surgeons, duly licensed to operate or practice in the state, or to any person holding a license to sell poisons as provided in §§ 34-20-8 to 34-20-10, inclusive.~~

Section 2. That § 34-20-8 be repealed.

~~34-20-8. No person, not a registered pharmacist, shall have authority to sell any poisons as provided in § 34-20-9 until he shall have procured a license from the State Board of Pharmacy so to do.~~

Section 3. That § 34-20-9 be repealed.

~~34-20-9. Any dealer, not a registered pharmacist, being a citizen of the United States or a resident of South Dakota, and of good moral character, may procure a license as provided in this~~

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~~chapter to sell certain poisons, to wit:~~

~~(1) Paris green, lead arsenate, calcium arsenate;~~

~~(2) Preparations and mixtures intended for insecticidal and fungicidal use in which the active ingredients are organic compounds of mercury;~~

~~(3) Copper carbonate, copper sulphate, copperas, formaldehyde, paradichlorobenzene, motor ether, stock dips;~~

~~and any dealer may procure a license as provided in this chapter to sell rat and gopher poisons, excepting such as contain any of the poisons set forth in schedule A in § 34-20-2. The State Board of Pharmacy and the secretary of agriculture by and with the approval of the attorney general shall have authority, subject to the requirements of chapter 1-26, to add, from time to time, to the above list similar products as they may come upon the market.~~

Section 4. That § 34-20-10 be repealed.

~~34-20-10. The State Board of Pharmacy upon receipt of an application in such form as it shall prescribe accompanied by a license fee of six dollars shall issue to such applicant a license to sell the poisons enumerated in § 34-20-9, provided that such application shall require the applicant to state that he will comply with the regulations governing the sale of poisons as provided for in §§ 34-20-12 to 34-20-15, inclusive. Such license shall be valid until the first day of January following the date of issue, and may be renewed upon payment to the secretary of the Board of Pharmacy of the fee prescribed herein.~~

Section 5. That § 34-20-11 be repealed.

~~34-20-11. The secretary of the State Board of Pharmacy shall immediately notify the secretary of the Department of Agriculture of the issuance or revocation of any license under § 34-20-10.~~

Section 6. That § 34-20-12 be repealed.

~~34-20-12. The poisons enumerated in § 34-20-9 shall be sold by licensees under § 34-20-10 only in original packages, and each package shall be labeled with the name of the active ingredients, a suitable method of antidotal treatment and marked in plain and conspicuous red letters not less than one-fourth inch high with the word, poison, and with the figure of the skull and crossbones in like size and color.~~

Section 7. That § 34-20-13 be repealed.

~~34-20-13. Every licensee selling any of the poisons enumerated in § 34-20-9 shall keep a register in which he shall record the name of the purchaser, date of sale, the name and quantity of poison sold, and for what purpose. Such register in the following form:~~

~~Date of Sale~~	~~Name of Poison or Preparation~~	~~Quantity~~	~~Purpose~~	~~Signature of Buyer or Person to Whom Delivered~~	~~Address~~	~~By Whom Introduced~~	~~By Whom Sold~~

~~shall be open at all times for inspection.~~

Section 8. That § 34-20-22 be repealed.

~~34-20-22. Any person who violates any provision of this chapter, or who shall sell or keep or offer for sale without a license any poisons for sale of which license is required, shall be guilty of a Class 2 misdemeanor if such violation is not otherwise classified, and every separate sale or separate day of continuing in violation of said chapter, shall be a separate and distinct offense. Conviction hereunder shall also operate to invalidate and to cancel the license to sell poisons in the discretion of the court.~~

Section 9. That § 36-11-2 be amended to read as follows:

36-11-2. Terms used in this chapter mean:

(1) "Association," the South Dakota Pharmacists Association;

(2) "Board" or "board of pharmacy," the State Board of Pharmacy in South Dakota;

(3) "Brand name," the proprietary or registered trademark name given to a drug product by its manufacturer, labeler or distributor and placed on the drug or on its container, label or wrapping at the time of packaging;

(4) "Chemicals," the chemical materials or medicine;

(5) "Compounding," the preparation, mixing, assembling, packaging or labeling of a drug or drug device as the result of a practitioner's prescription drug order or an initiative based on the pharmacist/patient/practitioner relationship in the course of professional practice or for the purpose of or as an incident to research, teaching or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drug or drug devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns;

(6) "Delivery," the actual, constructive or attempted transfer of a drug or drug device from one person to another, whether or not for a consideration;

(7) "Dispense" or "Dispensing," the preparation and delivery of a drug to a patient or a patient's agent pursuant to a prescription drug order in a suitable container with appropriate labeling for subsequent administration to or use by a patient. Dispensing includes preparation of labels for drug devices if the labeling is related to the dosage and administration of drugs;

(8) "Distributing," the delivery of a drug or drug device other than by administration or dispensing;

(9) "Drug administration," the direct application of a drug or drug device by injection, inhalation, ingestion or any other means to the body of a patient or research subject;

(10) "Drug device," equipment, process, biotechnological entity, diagnostic agent or other product used in combination with a drug to provide effective management of

medication regimens;

(11) "Drug utilization review program," any program operated solely or partially as a professional standards review organization whose purpose is to educate pharmacists and practitioners on severe adverse reactions to drugs, therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse, as well as to identify and reduce the frequency of patterns of potential and actual fraud, abuse, gross overuse, inappropriate care or medically unnecessary care associated with specific drugs or groups of drugs among practitioners, pharmacists and patients;

(12) "Equivalent drug product," a drug product that is considered to be therapeutically equivalent to other pharmaceutically equivalent products as determined by the latest edition of Approved Drug Products with Therapeutic Equivalence Evaluations, as adopted by the South Dakota Board of Pharmacy pursuant to chapter 1-26;

(13) "Labeling," the process of preparing and affixing a label to any drug or drug device container exclusive of the labeling by the manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or drug device;

(14) "Medical device," an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, which is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease in man or other animals or is intended to affect the structure or any function of the body of man or other animals, which does not achieve any of its principal intended purposes

through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for achievement of any of its principal intended purposes;

(15) "Medicines," drugs or chemicals or their preparations in suitable form for the prevention, relief or cure of diseases when used either internally or externally by man or for animals;

(15A) "Nonprescription drugs," drugs which are labeled for use by the general public in accordance with § 502 of the Federal Food, Drug and Cosmetic Act as amended through January 1, 1997, and may be sold without a prescription drug order in accordance with § 503 of the Federal Food, Drug and Cosmetic Act as amended through January 1, 1997. The term does not include drugs which are required by federal law to bear the statement, "Caution: federal law prohibits dispensing without prescription," drugs intended for human use by hypodermic injection, or animal remedies regulated by chapter 39-18;

(16) "Patient counseling," oral communication by the pharmacist of information to the patient or caregiver, as defined in rules promulgated pursuant to chapter 1-26, to improve therapy by ensuring proper use of drugs and drug devices;

(17) "Pharmaceutical care," provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to cure or prevention of a disease, elimination or reduction of a patient's symptoms or arresting or slowing of a disease process;

(18) "Pharmacist," an individual licensed by the State Board of Pharmacy to engage in the practice of pharmacy;

(19) "Pharmacy," any place within or outside this state licensed by the State Board of

Pharmacy where drugs are dispensed and pharmaceutical care is provided to residents of this state;

(20) ~~"Poisons," as defined in chapter 34-20;~~

~~(21)~~ "Practitioner," an individual licensed, registered or otherwise authorized by the jurisdiction in which he is practicing to prescribe drugs in the course of professional practice;

~~(22)~~(21) "Prescription drug order," a written or oral order of a practitioner for a drug or drug device for a specific patient;

~~(22A)~~(22) "Registered pharmacy technician," a person registered by the board who is employed by a pharmacy to assist licensed pharmacists in the practice of pharmacy by performing specific tasks delegated by and under the immediate personal supervision and control of a licensed pharmacist, as permitted by the board~~.~~;

(23) "Retail place of business," any place where merchandise is sold at retail and from which original packages of nonprescription drugs are sold or taken to be sold at retail;

(24) "Reverse distributor," any person or business registered with the Drug Enforcement Administration that accepts drug products from vendors and returns the drug products to manufacturers for credit or destruction.

Section 10. That § 36-11-11 be amended to read as follows:

36-11-11. The Board of Pharmacy may promulgate rules pursuant to chapter 1-26 as follows:

(1) Pertaining to the practice of pharmacy;

(2) ~~Regulating the sale of poisons;~~

~~(3)~~ Relating to the sanitation of persons and establishments licensed under the provisions of this chapter;

~~(4)~~(3) Pertaining to establishments licensed under the provisions of this chapter wherein any drug is compounded, prepared, dispensed or sold;

~~(5)~~(4) Providing for minimum equipment and standards of establishments licensed under the provisions of this chapter;

~~(6)~~(5) Pertaining to the sale of drugs by or through any mechanical device;

~~(7)~~(6) In cooperation with other governmental agencies where there exists a joint responsibility for protecting the public health and welfare;

~~(8)~~(7) Pertaining to the sale of nonprescription drugs;

~~(9)~~(8) To adopt such publications or supplements thereto as shall from time to time be deemed necessary to describe the drugs, medicines, prescription drugs, dispensing physician or other terms used in § 36-11-2;

~~(10)~~(9) Pertaining to the posting of prescription prices on the premises of a pharmacy department to provide consumers with comparative pricing information;

~~(11)~~(10) Pertaining to registration of drug wholesalers and manufacturers;

~~(12)~~(11) Pertaining to home health care and service;

~~(13)~~(12) Pertaining to computerized pharmacy;

~~(14)~~(13) Pertaining to the registration of registered pharmacy technicians and the suspension or revocation of registration; an annual registration fee not to exceed thirty dollars; and tasks that may not be delegated by a licensed pharmacist to a registered technician~~.~~;

~~(15)~~(14) Redispensing of pharmaceuticals.

Section 11. That § 36-11-51 be repealed.

~~36-11-51. Any retail place of business other than a licensed pharmacy shall obtain a license from the board to sell nonprescription drugs. Any person who has a retail place of business shall apply for a license on a form prescribed by the board. The person shall be at least eighteen years of age and of good moral character to qualify for a license. The license shall be issued upon application and payment of a fee of twenty dollars annually. Any person who keeps for sale or sells nonprescription drugs without a license is guilty of a Class 2 misdemeanor. The license shall be in effect for one year commencing July first and ending on June thirtieth following the date of the application and shall apply to the location for which it is issued and shall be posted in a conspicuous place at such location.~~

Section 12. That § 36-11-52 be repealed.

~~36-11-52. Nothing in this chapter may be construed to prevent the sale, at retail, of nonprescription drugs by a pharmacy nor to prevent the sale of a nonprescription drug in the original package by any retail place of business licensed by the board to sell nonprescription drugs.~~

Section 13. That § 36-11-60 be repealed.

~~36-11-60. The board may, in compliance with chapter 1-26, deny, suspend, or revoke any license to sell nonprescription drugs obtained by false representations made in the application therefor, or for violation of law or rules and regulations adopted by the board.~~

Section 14. That § 36-11-61 be repealed.

~~36-11-61. The term "wholesaler" means any person, partnership, or corporation doing business within this state and selling or distributing drugs or medicines for resale. The term "wholesale salesman" means an individual who takes an order from a retailer in this state for, or makes delivery of, any drug or medicine to a retailer for resale. No wholesaler may sell or distribute, and no wholesale salesman may take orders for, or deliver, any drug or medicine to~~

~~any retailer in this state for the purpose of resale, unless the retailer is licensed as provided in this chapter to keep for sale and to resell such drug or medicine at retail. A violation of this section is a Class 2 misdemeanor.~~

Section 15. That ARSD 20:51:05:08 be repealed.

~~20:51:05:08. Limitation on sale of self-medications. A pharmacist may not sell or deliver for use in self-medication any drug or medicine which could be fatal to human life in doses of 60 grains or less until the pharmacist is satisfied that the person to whom the drug or medicine is sold or delivered is a proper person to be entrusted with the poisonous drug or medicine and that the person intends to use it only as directed and for purposes only for which it is indicated.~~

Section 16. That ARSD 20:51:05:09 be repealed.

~~20:51:05:09. Sale of certain self-medications require buyers to sign poison register. A pharmacist may not sell or deliver for use in self-medications any drug or medicine which could be fatal to human life in doses of 15 grains or less until the person to whom the drug or medicine is sold or delivered has signed the pharmacy's poison register.~~

Section 17. That ARSD 20:51:05:10 be repealed.

~~20:51:05:10. Limitation on sale of drugs to persons under 16 years of age. No pharmacist shall sell or deliver for use in self-medication, any poisonous drug or medicine to any person under 16 years of age, except upon the written or telephone order of an adult person known to the pharmacist.~~

Section 18. That ARSD 20:51:05:11 be repealed.

~~20:51:05:11. Verbal warning required on sale of potent drugs. No pharmacist shall sell or deliver for use in self-medication, any potent drug or potent medicine, which if applied externally or taken internally may impair the normal functions of any tissues or organ of the body, unless the person to whom sold or delivered is a responsible adult person who has been~~

~~warned verbally before delivery is made against any danger in its use or against improper or unsafe storage in the home.~~

Section 19. That ARSD 20:51:06:13 be repealed.

~~20:51:06:13. Display of nonprescription drugs in pharmacy. The owner of a pharmacy may maintain outside of the prescription department and within the general merchandise area of the pharmacy a segregated sales display of nonprescription drugs that nonpharmacist sales personnel are permitted to sell under SDCL 36-11-51 and 36-11-52 and chapters 20:51:08 and 20:51:09. The owner shall post signs furnished by the Board of Pharmacy for public display in connection with the segregated sales display of selected nonprescription drugs. The pharmacist owner or pharmacist manager shall prohibit retail sales to be made from the segregated sales display of selected nonprescription drugs by any person who is not 17 years of age or older in accordance with chapter 20:51:08. Retail places of business that may have a pharmacy on the premises but sell nonprescription drugs from a segregated area outside the pharmacy at times when the pharmacy is closed shall obtain a nonprescription drug license.~~

Section 20. That ARSD 20:51:08:01 be repealed.

~~20:51:08:01. Segregated sales display required. Every pharmacist conducting a retail pharmacy in this state shall segregate the sales display of packaged drugs, medicines and poisons from any sales display of general merchandise.~~

Section 21. That ARSD 20:51:08:03 be repealed.

~~20:51:08:03. No drug or poison can be displayed where buyer can pick up unless in restricted drug area. No packaged drug, medicine or poison shall be openly displayed for sale, within any pharmacy in this state, in a manner where the buyer may pick up and examine the package, unless such packaged drug, medicine or poison is displayed within a restricted drug area adjoining the prescription department of such pharmacy and within which restricted area~~

~~no articles of general merchandise are similarly displayed.~~

Section 22. That ARSD 20:51:08:04 be repealed.

~~20:51:08:04. Only pharmacists and persons over 16 can make sales from restricted drug area. All sales from such restricted drug area must be completed by a registered pharmacist, or by trained personnel over 16 years of age, who are acting under the direction and supervision of such registered pharmacist.~~

Section 23. That ARSD 20:51:08:05 be repealed.

~~20:51:08:05. Requirements of sale from restricted drug area. Every person selling or making delivery of any item from the restricted drug area shall be instructed by the pharmacist supervisor not to sell or deliver:~~

~~(1) Any item from the restricted drug areas to any child under 12 years of age or to permit such children within the restricted drug area unless they are under constant supervision of an adult person;~~

~~(2) Any item which if applied externally or taken internally may impair the normal functions of any tissues or organ of the body, unless the buyer is a reasonable adult person who has been warned to keep the item out of the reach of small children;~~

~~(3) Any item, the labeling of which bears any warning or caution against use or duration of administration or application in such manner and form as are necessary for the protection of users, unless the buyer has been warned to use only as directed on the label;~~

~~(4) Any item, the labeling of which bears any warning or caution against use in pathological conditions or by children where its use may be dangerous to health, unless the seller is satisfied, after inquiry, that the buyer is not trying the item for self-medication for the first time and that the buyer understands the proper use of the item and is a proper person to be entrusted with the item. If the buyer has not used the item before, the buyer shall be referred to the pharmacist~~

~~supervisor for sale and delivery; and~~

~~(5) Any item, the labeling of which bears the statement, "Warning may be habit forming," unless the seller has been authorized by the pharmacist supervisor to complete the sale.~~

Section 24. That ARSD 20:51:08:06 be repealed.

~~20:51:08:06. Requirements for the sale of items from the restricted drug area. Every person selling or delivering any item from the restricted drug area shall be instructed by the pharmacist supervisor not to sell or deliver any of the following:~~

~~(1) Without prescription, a drug whose label bears the statement "Caution: Federal law prohibits dispensing without prescription";~~

~~(2) Poison to any person under 16 years of age or to any person known to be of unsound mind, except upon the written or telephoned order of a responsible adult known to the seller; and~~

~~(3) Poison, until the seller is satisfied, after inquiry, that the buyer understands the poisonous nature of the item and that the poison is to be used for legitimate purposes. If the poison is a schedule A poison, the buyer shall sign the pharmacy's poison register before the poison is sold or delivered.~~

Section 25. That ARSD 20:51:08:07 be repealed.

~~20:51:08:07. Restricted drug areas must be under supervision of pharmacist. Such restricted drug area, shall, at all times when the pharmacy is open to the public, be under the vision and supervision of a registered pharmacist.~~

Section 26. That ARSD 20:51:08:09 be repealed.

~~20:51:08:09. Self-service signs prohibited. No person, firm, or corporation shall hereafter carry on, conduct, or transact business under a name which contains as a part thereof the words "self-service drugs," "self-service drug," "self-service drug store," or "self-service pharmacy,"~~

~~or in any manner by advertisement, circular, poster, or sign, indicate to the public that drugs and medicines are being displayed and offered for sale by the methods of self-service.~~

Section 27. That ARSD 20:51:09:01 be repealed.

~~20:51:09:01. Application. Application for registration as a dealer of nonprescription drugs must be made upon a form prescribed by the Board of Pharmacy showing the contact person and the name and address of business conducted. The application must be accompanied by the license fee of $20.~~

Section 28. That ARSD 20:51:09:03 be repealed.

~~20:51:09:03. Original package sales only. Nonprescription drugs may be sold at retail only in the original package in which they are purchased.~~

Section 29. That ARSD 20:51:09:04 be repealed.

~~20:51:09:04. Labeling requirements. The immediate container of any nonprescription drug, as well as the outside container or wrapper, if any, of the retail package of the article, unless the outside container or wrapper is such that the wording on the immediate container is easily legible through the outside container or wrapper, must bear a prominent label, with such conspicuousness and such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, showing the following:~~

~~(1) The common or usual name of the nonprescription drug and if it is fabricated from two or more ingredients, the common or usual name of each active ingredient;~~

~~(2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;~~

~~(3) Adequate directions for use; such directions may not prescribe, recommend, or suggest dosage, frequency, or duration of use that is dangerous to health;~~

~~(4) Adequate warning against use in pathological conditions or by children if its use may~~

~~be dangerous to health, or against unsafe dosage, methods, or duration of administration or application, in such manner and form as are necessary for the protection of users;~~

~~(5) The name and place of business of the manufacturer, packager, or distributor; and~~

~~(6) If the nonprescription drug is likely to deteriorate, it must be packaged in such form and manner, and its label bear a statement of the necessary precautions, for the protection of the public health.~~

Section 30. That ARSD 20:51:09:05 be repealed.

~~20:51:09:05. Segregated sales display of nonprescription drugs required. Any licensed dealer in nonprescription drugs shall segregate the sales display of nonprescription drugs from any sales display of general merchandise.~~

Section 31. That ARSD 20:51:09:06 be repealed.

~~20:51:09:06. Restricted sales for the protection of public health. A dealer in nonprescription drugs or the dealer's agent may not sell or deliver any nonprescription drug:~~

~~(1) Which if applied externally or taken internally may impair the normal functions of any tissues or organ of the body, unless the person to whom sold and delivered is a responsible adult person who has been warned at the time of sale and delivery to keep the nonprescription drug out of the reach of small children;~~

~~(2) Which could be fatal to human life in doses of 60 grains, or less, to any minor person under 16 years of age, or to any person known to be of unsound mind, except under the written or telephone order of a responsible adult person known to the registered dealer in nonprescription drugs; or~~

~~(3) Intended for human use, the labeling of which bears any warning or caution against use in pathological conditions or by children if its use may be dangerous to health, unless the seller is satisfied, after inquiry, that the buyer is not trying the nonprescription drug for self-medication~~

~~for the first time and that the buyer understands all of the warning and caution statements and the proper use of the nonprescription drug and is a proper person to be entrusted with the nonprescription drug.~~

Section 32. That ARSD 20:51:09:07 be repealed.

~~20:51:09:07. Course of study kept on file. Any licensed dealer in nonprescription drugs shall keep on file in the dealer's retail place of business a reference book or a limited course of study on the retailing and medicinal uses of nonprescription drugs.~~

Section 33. That ARSD 20:51:09:09 be repealed.

~~20:51:09:09. Nonprescription drugs defined. The term nonprescription drugs as it relates to the practice of pharmacy is defined in SDCL subdivision 36-11-2(15A).~~

Section 34. That ARSD 20:51:10:01 be repealed.

~~20:51:10:01. Poison definitions. The word poison wherever it appears in South Dakota Board of Pharmacy regulations means:~~

~~(1) Any article of commerce offered for retail in the manufacturer's original package and whether labeled with the word "poison" for shipment in interstate commerce or not, which article of commerce is intended for medicinal use and is being bought and sold for medicinal purposes as evidenced by its labeling which bears:~~

~~(a) Any reference to its standard of purity that such article is suitable for use as medicine by using the abbreviation for the United States Pharmacopeia "U.S.P.", or the abbreviation for the National Formulary "N.F.";~~

~~(b) Any recommendation for use in the prevention, relief or cure of diseases in man or for animal; or~~

~~(c) Any directions for treatment of diseases in man or animal, which article of commerce would be fatal to any human life in repeated doses of 60 grains as defined in SDCL~~

~~34-20-1 to 34-20-5, inclusive, and~~

~~(2) Any other article of commerce specifically named, defined, or referred to in SDCL 34-20, and none other.~~

Section 35. That ARSD 20:51:10:09 be repealed.

~~20:51:10:09. Designated poisons. The following are designated as poisons:~~

~~(1) Insecticides containing not more than 40 percent of nicotine sulphate;~~

~~(2) Sodium flouride when labeled for use as a medicine or insecticide;~~

~~(3) Toilet bowl cleaners containing more than 10 percent hydrochloric acid;~~

~~(4) Poisonous veterinary remedies whether labeled "poison" for shipment in interstate commerce or not, but which would be fatal to human life in repeated doses of 60 grains, or less, as defined in SDCL 34-20-2 and 34-20-3; provided, each such veterinary remedy is fabricated from two or more ingredients and it is marketed under a trade name; and provided, further, that the label or labeling of the original package of any such veterinary remedy does not bear:~~

~~(a) Any recommendations or directions for use by man;~~

~~(b) Any directions for use in the treatment of animals other than for external application or for oral administration;~~

~~(c) Any statement regarding its storage other than at normal room temperatures; or~~

~~(d) Any expiration date beyond which such poisonous veterinary remedy should not be used;~~

~~(5) The above and foregoing products shall be a part of the list of poisons designated by law for sale by individuals licensed pursuant to SDCL 34-20-8.~~