

## 2021 South Dakota Legislature

**Senate Bill 127****AMENDMENT 127A FOR THE INTRODUCED BILL**

1 **An Act to require inspection of moisture meters and protein-measuring devices,**  
2 **establish a fee for inspection, and to provide a penalty.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **38-31A-1. Definitions.**

6 Terms used in this Act mean:

7 (1) "Agricultural commodity," any grain or seed that is ordinarily tested for moisture  
8 content when offered for sale, processing, or storage;

9 (2) "Department," the Department of Public Safety;

10 (3) "Moisture-measuring devices," any electronic device or instrument used in  
11 ascertaining the moisture content of agricultural commodities; and

12 (4) "Protein-measuring devices," any electronic device or instrument used in  
13 ascertaining the protein content of agricultural commodities.

14 **Section 2.** That a NEW SECTION be added:

15 **38-31A-2. Inspection--Moisture meters--Protein-measuring devices.**

16 The department shall inspect any moisture-measuring device or protein-measuring  
17 device used in commerce in this state, as authorized under chapter 37-21, except those  
18 belonging to the United States. The department shall inspect a device at least once every  
19 year two years. If an inspection or comparative test reveals that the moisture-measuring  
20 device or protein-measuring device being inspected or tested conforms to the standards  
21 and specifications established by the department, the department shall mark it with an  
22 appropriate seal pursuant to § 37-21-13.

23 Any moisture-measuring device or protein-measuring device that upon inspection  
24 is found not to conform with the specifications and standards established by the

1 department shall be marked with an appropriate seal showing the device to be defective.  
2 The seal may not be altered or removed until the device is properly repaired and  
3 reinspected. The owner or user of such device shall be notified of the defective condition  
4 by the department on an inspection form prepared by the department.

5 **Section 3.** That a NEW SECTION be added:

6 **38-31A-3. Fees--Promulgation of rules.**

7 The department may charge a fee, not to exceed thirty dollars, for each device  
8 subject to inspection under the provisions of this Act. The department shall establish the  
9 amount of the fee by rule promulgated in accordance with chapter 1-26. Fees collected  
10 under the provisions of this Act shall be deposited in the general fund.

11 **Section 4.** That a NEW SECTION be added:

12 **38-31A-4. Location--Devices--Operating procedure.**

13 Any device used to ascertain the moisture or protein content of agricultural  
14 commodities offered for sale, processing, or storage shall be used in a location visible to  
15 the general public and the procedure for operating the moisture-measuring device or the  
16 protein-measuring device shall be displayed in a conspicuous place close to the device.

17 **Section 5.** That a NEW SECTION be added:

18 **38-31A-5. Use--Defective device--Violation as misdemeanor.**

19 No person may use or cause to be used a moisture-measuring device or protein-  
20 measuring device in commerce that has been inspected by the department and was  
21 determined to be defective. If a conviction for a violation of this section is for a first  
22 offense, the person is guilty of a Class 2 misdemeanor. If a conviction for a violation of  
23 this section is for a second or subsequent offense, the person is guilty of a Class 1  
24 misdemeanor.

25 **Section 6.** That a NEW SECTION be added:

26 **38-31A-6. Promulgation of rules--Inspection and test standards.**

27 The department shall promulgate rules pursuant to chapter 1-26 to establish any  
28 inspection and test standards in compliance with § 37-21-6.

29 **Section 7.** That a NEW SECTION be added:

1           **38-31A-7. Complaint--Investigation.**

2           If a person believes a device under this Act is defective or inaccurate, the person  
3           may bring a complaint under § 37-21-10.