

2021 South Dakota Legislature

Senate Bill 127**AMENDMENT 127B 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;

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 every year. If an
19 inspection or comparative test reveals that the moisture-measuring device or protein-
20 measuring device being inspected or tested conforms to the standards and specifications
21 established by the department, the department shall mark it with an appropriate seal
22 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 ~~Location--Devices--Operating procedure.~~

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

17 **Section 4.** 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 5.** 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 6.** 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.