

# **PRISON/JAIL POPULATION COST ESTIMATE STATEMENT**

Ninety-Seventh Session SESSION  
2022 South Dakota Legislature

## **Senate Bill 38**

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An Act to prohibit a grain broker from engaging in certain transactions or activities and to provide a penalty therefor.

A prison/jail population cost estimate statement is required for SB38 because it establishes a three, new Class 5 felony violations.

Section 1 of the bill as introduced would amend SDCL 49-45-1. SDCL 49-45-1 currently requires any purchaser of grain in large amounts or purchaser of grain for resale in South Dakota, save isolated sales by producers, to be licensed with the Public Utilities Commission. It is a Class 1 misdemeanor to violate this section.

Section 1 of the bill would add a new violation--a Class 5 felony--for someone, without a grain buyer license, to represent themselves as a grain broker. Section 1 would also increase the current authorization for a civil fine from \$1,000 to \$5,000 for each transaction conducted by a grain buyer without a grain buyer license, with a maximum fine cap increased from \$20,000 to \$50,000. Lastly, section 1 would define the term, "purchase of grain," as evidenced by a uniform scale ticket or receipt. This term is used throughout SDCL 49-45-1 to describe when a transaction that could trigger the violation occurs.

Section 2 of the bill would amend SDCL 49-45-1.1 to define key terms for the proposed violations. In particular, the term "grain broker" is defined as distinct from the existing "grain buyer." The term, grain buyer, would describe someone who purchases grain, while the new term, grain broker, would appear to apply to middlemen who facilitate, but do not ultimately pay for, the grain transaction. Therefore, this bill would expand the class of those who must obtain a grain buyer license.

Section 3 would establish two new felonies for specific, prohibited conduct by grain brokers. In sum, the bill would establish three new Class 5 felonies for the following violations:

- (1) By acting as a grain broker, or advertising oneself as a grain broker, without obtaining a grain buyer license (Section 1).
- (2) When a grain broker with a grain buyer license negotiates a grain transaction with an unlicensed grain buyer (Section 3, subdivision (1)); or
- (3) When a grain broker with a grain buyer license takes or attempts to take title to the grain that is the subject of the broker's transaction (Section 3, subdivision (2)).

This bill's proposed criminal penalties for grain brokers appear to be unique. Research suggests that only North Dakota law requires the licensing of grain brokers, and three cases involving failure to license were recounted by North Dakota Department of Agriculture staff within the last twenty years. According to Unified Judicial System data, there have been no violations of SDCL 49-45-1's illegal grain purchase provisions in the last decade.

Therefore, the impact of this bill on the state prison system and county jail populations, along with the associated operational and capital costs, is estimated to be negligible.

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