

## 2023 South Dakota Legislature

**House Bill 1203****AMENDMENT 1203B  
FOR THE INTRODUCED BILL**

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

1 **An Act to establish provisions relating to occupational licensing and criminal**  
2 **convictions.**

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

4 **Section 1. That § 36-14-32 be AMENDED:**

5 ~~36-14-32.~~ The Board of Barber Examiners may ~~refuse to issue or renew, or may~~  
6 deny, suspend, or revoke, ~~any a~~ certificate of registration for any of the following causes:

7 (1) ~~Conviction of a felony;~~

8 (2) ~~Malpractice or incompetency;~~

9 (3)~~(2)~~ Continued practice by a person knowingly having an infectious or contagious  
10 disease;

11 (4)~~(3)~~ Advertising by means of knowingly false or deceptive statements;

12 (5)~~(4)~~ Advertising, practicing, or attempting to practice under a trade name other than  
13 one's own;

14 (6)~~(5)~~ Drunkenness, or addiction to the use of habit-forming drugs;

15 (7)~~(6)~~ Immoral or unprofessional conduct; or

16 (8)~~(7)~~ The commission of any ~~of the offenses~~ offense described in § 36-14-36.

17 The board may not deny, suspend, revoke, or limit the scope of a certificate of  
18 registration solely because the applicant was convicted of, pled guilty to, or pled nolo  
19 contendere to a crime. The board may take such action upon determining that the  
20 applicant would, if allowed to practice, pose a risk to public safety.

21  
22 **Section 2. That § 36-15-55.2 be AMENDED:**

23 ~~36-15-55.2.~~ The commission may, in ~~compliance~~ accordance with chapter 1-26,  
24 ~~either refuse to issue, deny, suspend, or revoke, or suspend a license which is required~~

1 ~~by this chapter~~ on any of the grounds for disciplinary action provided set forth in this  
2 chapter.

3 **Section 3. That § 36-15-56 be AMENDED:**

4 **36-15-56.** The grounds for ~~disciplinary action~~ denial, suspension, or revocation of  
5 a license are:

- 6 (1) Fraud or deception in procuring a license required by this chapter;
- 7 (2) Failure of any person to comply with any of the requirements of this chapter or  
8 rules adopted pursuant to this chapter;
- 9 (3) Publication or use of any untruthful or improper statement or representation, with  
10 a view of deceiving the public, or any patron or customer in connection with the  
11 practice or education in cosmetology;
- 12 (4) Habitual drunkenness or drug addiction affecting the licensee's practice of the  
13 profession, or conviction of a violation of any federal or state law relating to  
14 narcotic drugs;
- 15 (5) Failure to furnish to the commission, any report or information which is required  
16 by this chapter or rules adopted pursuant to this chapter;
- 17 (6) The employment of any unlicensed person to perform work which under this  
18 chapter can lawfully be done only by licensed persons;
- 19 (7) Failure to publicly display any license required by this chapter;
- 20 (8) Willfully making any false oath or affirmation whenever any oath or affirmation is  
21 required in this chapter or by rules adopted pursuant to this chapter;
- 22 (9) ~~Conviction of a felony affecting the licensee's practice of the profession, as shown~~  
23 ~~by a certified copy of the record of the court of conviction;~~
- 24 ~~(10)~~—Continued practice by persons knowingly having an infectious or contagious  
25 disease; and
- 26 ~~(11)~~(10) Practice of any cosmetology services for which the commission requires  
27 additional continuing education when the education has not been completed.

28 The commission may not deny, suspend, or revoke a license solely because the  
29 applicant was convicted of, pled guilty to, or pled nolo contendere to a crime. The  
30 commission may take such action upon determining that the applicant, if licensed, would  
31 pose a risk to public safety.

32 **Section 4. That § 36-16-33 be AMENDED:**

1           **36-16-33.** The State Electrical Commission may, in accordance with chapter 1-26,  
 2 ~~refuse to issue~~ deny, suspend, or revoke, ~~or suspend~~ a license, or limit the scope of a  
 3 licensee's practice of any licensee for:

- 4           (1) Failure to comply with any law, or any rule or order of the commission;  
 5           (2) Failure to comply with the National ~~Electric~~ Electrical Code, as adopted by rule of  
 6 the commission or by local ordinance;  
 7           (3) Failure to notify the commission, in writing, within thirty days following ~~any~~:  
 8           (a) A denial, suspension, or revocation, ~~or suspension~~ of a certificate, license,  
 9           or permit issued by any other jurisdiction; ~~or any~~  
 10           (b) A change of address or employment; or  
 11           (4) Knowingly aiding and abetting any person who is not licensed or permitted in  
 12 accordance with this chapter to engage in any activity that requires a license under  
 13 § 36-16-13 or permit under this chapter; ~~or~~  
 14 ~~(5) Conviction of or plea of guilty or nolo contendere to a crime of violence as defined~~  
 15 ~~under § 22-1-2. For purposes of this subdivision, a certified copy of the record of~~  
 16 ~~conviction or plea of guilty or nolo contendere is conclusive evidence.~~

17           The commission may not deny, suspend, or revoke a license, or limit the scope of  
 18 a licensee's practice, solely because the applicant was convicted of, pled guilty to, or pled  
 19 nolo contendere to a crime. The commission may take such action upon determining that  
 20 the applicant would, if licensed, pose a risk to public safety.

21 **Section 5. That § 36-21C-13 be AMENDED:**

22           **36-21C-13.** The commission may ~~refuse to grant or may deny,~~ deny, suspend, or revoke  
 23 a home inspector license or registration upon proof, to the satisfaction of the commission,  
 24 that the holder has:

- 25           (1) Disclosed any information concerning the results of the home inspection without  
 26 the approval of ~~a~~ the client or the client's representative;  
 27           (2) Accepted compensation from more than one interested party for the same service  
 28 without the written consent of all interested parties;  
 29           (3) Accepted commissions or allowances, directly or indirectly, from other parties  
 30 dealing with the holder's client in connection with work for which the holder is  
 31 responsible; or  
 32           (4) Failed to disclose promptly to a client information about any business interest of  
 33 the holder, which may affect the client in connection with the home inspection; ~~or~~

1 ~~(5) — Been convicted, or pled guilty or nolo contendere before a court of competent~~  
 2 ~~jurisdiction in this or any other state, or before any federal court, of a misdemeanor~~  
 3 ~~involving moral turpitude or a felony arising under the laws of this state or under~~  
 4 ~~the laws of the United States or any other state that would be a misdemeanor~~  
 5 ~~involving moral turpitude or a felony under the laws of this state.~~

6 The commission may not deny, suspend, or revoke a home inspector license or  
 7 registration, solely because the applicant was convicted of, pled guilty to, or pled nolo  
 8 contendere to a crime. The commission may take such action upon determining that the  
 9 applicant would, if licensed or registered, pose a risk to public safety.

10 **Section 6. That § 36-25-27 be AMENDED:**

11 **36-25-27.** ~~The commission may, in accordance with chapter 1-26, refuse to issue,~~  
 12 ~~deny, suspend, revoke, or suspend a license, or limit the scope of any license for:~~

- 13 (1) Failure to comply with any law, or any rule or order of the commission;  
 14 (2) Failure to comply with local plumbing ordinances;  
 15 (3) Failure to notify the commission, in writing, within thirty days following ~~any,~~  
 16 (a) A denial, suspension, or revocation, ~~or suspension~~ of a certificate, license,  
 17 or permit issued by any other jurisdiction; ~~or any~~  
 18 (b) A change of address or employment; or  
 19 (4) Knowingly aiding and abetting any person who is not licensed or permitted in  
 20 accordance with this chapter to engage in any activity that requires a license or  
 21 permit under this chapter; ~~or~~  
 22 ~~(5) — Conviction of or plea of guilty or nolo contendere to a crime of violence as defined~~  
 23 ~~under § 22-1-2. For purposes of this subdivision, a certified copy of the record of~~  
 24 ~~conviction or plea of guilty or nolo contendere is conclusive evidence.~~

25 The commission may not deny, suspend, or revoke a license, or limit the scope of  
 26 a license, solely because the applicant was convicted of, pled guilty to, or pled nolo  
 27 contendere to a crime. The commission may take such action upon determining that the  
 28 applicant, if licensed, would pose a risk to public safety.