

2025 South Dakota Legislature

Senate Bill 14**AMENDMENT 14A
FOR THE INTRODUCED BILL**

1 **An Act to revise and repeal provisions related to agricultural production facilities**
2 **and to provide a penalty therefor.**

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

4 **Section 1. That § 22-30A-17 be AMENDED:**

5 **22-30A-17.** Grand theft is a Class 6 felony, if the property stolen:

6 (1) Exceeds one thousand dollars in value but is less than or equal to two thousand
7 five hundred dollars;

8 (2) Is a firearm with a value of less than or equal to two thousand five hundred dollars;
9 or

10 (3) Is taken from the person of another with a value of less than or equal to two
11 thousand five hundred dollars; ~~or~~

12 (4) ~~The property stolen is cattle, horses, mules, sheep, goats, buffalo, or captive~~
13 ~~nondomestic elk~~ Is livestock, as defined in § 21-61-1, with a value of less than or
14 equal to two thousand five hundred dollars.

15 Grand theft is a Class 5 felony if the value of the property is more than two
16 thousand five hundred dollars but less than or equal to five thousand dollars.

17 Grand theft is a Class 4 felony if the value of the property is more than five
18 thousand dollars but less than or equal to one hundred thousand dollars.

19 Grand theft is a Class 3 felony if the value of the property is more than one hundred
20 thousand dollars but less than or equal to five hundred thousand dollars.

21 **Section 2. That § 40-38-1 be AMENDED:**

22 **40-38-1.** Terms used in this chapter mean:

23 (1) "Agricultural production facility," real or personal property that is used primarily
24 for agricultural purposes, including:

- 1 (a) A vehicle, building, structure, research facility, or area where an animal is
 2 kept, handled, housed, transported, exhibited, bred, or offered for sale; or
 3 (b) A barn, crop field, elevator, garden, greenhouse, nursery, orchard, research
 4 facility, seedhouse, warehouse, structure, machinery, or equipment;
 5 (2) "Animal," any living vertebrate except human beings;
 6 ~~(2)~~ "Animal facility," ~~any vehicle, building, structure, research facility, premises, or~~
 7 ~~area where an animal is kept, handled, housed, transported, exhibited, bred, or~~
 8 ~~offered for sale;~~
 9 (3) "Consent," ~~consent~~ permission by the owner or by a person legally authorized to
 10 act for the owner. Consent is not effective if:
 11 (a) Induced by force or threat;
 12 (b) Given by a person the offender knows is not legally authorized to act for
 13 the owner; or
 14 (c) Given by a person who by reason of age, mental disease, or defect, or
 15 influence of drugs or alcohol is known by the offender to be incapable of
 16 consenting;
 17 (4) "Crop," a plant or plant product that is grown for food, feed, fiber, forage, or fuel;
 18 (5) "Deception," the act of knowingly:
 19 (a) Creating or confirming another person's belief or impression as to the
 20 existence or nonexistence of a fact or condition that is false and that the
 21 actor does not believe to be true; or
 22 (b) Failing to correct a false belief or impression as to the existence or
 23 nonexistence of a fact or condition that the actor previously created or
 24 confirmed;
 25 (6) "Deprive," to:
 26 (a) Withhold an animal or material appurtenant to an animal from the owner
 27 permanently or for so extended a period of time that a major portion of the
 28 value or enjoyment of the animal or property is lost to the owner;
 29 (b) Restore an animal or property only upon payment of a reward or other
 30 compensation; or
 31 (c) Dispose of an animal or other property in a manner that makes recovery of
 32 the animal or property by the owner unlikely;
 33 ~~(5)~~(7) "Owner," a person who has title to the property, legal possession of the property,
 34 or a greater right to possession of the property than the other;
 35 ~~(6)~~(8) "Possession," actual custody, control, or management; and

1 ~~(7)~~(9) "Research facility," any place at which any scientific test, experiment, or
 2 investigation involving the use of any living animal or crop is carried out,
 3 conducted, or attempted.

4 **Section 3. That § 40-38-2 be AMENDED:**

5 **40-38-2.** No person, without consent, may:

- 6 (1) Intentionally damage or destroy an ~~animal~~ agricultural production facility, ~~or an~~
 7 animal, ~~or property in or on the animal facility,~~ or obstruct any enterprise
 8 conducted at the ~~animal~~ agricultural production facility;
- 9 (2) Acquire or otherwise exercise control over an ~~animal~~ agricultural production facility
 10 or an animal or other property from an ~~animal~~ agricultural production facility with
 11 the intent to deprive the owner or to obstruct the enterprise conducted at the
 12 facility;
- 13 (3) Enter an ~~animal~~ agricultural production facility, not then open to the public, with
 14 intent to commit any act prohibited by this section;
- 15 (4) Enter an ~~animal~~ agricultural production facility and remain concealed, with intent
 16 to commit any act prohibited by this section;
- 17 (5) Enter an ~~animal~~ agricultural production facility and commit or attempt to commit
 18 any act prohibited by this section; ~~or~~
- 19 (6) Intentionally turn out or release any animal or any plant pest or pathogen in or on
 20 an ~~animal~~ agricultural production facility;
- 21 ~~(7) Use deception to gain access to or employment at an agricultural facility that is not~~
 22 ~~open to the public, with the intent to cause physical or economic harm or other~~
 23 ~~injury to the agricultural production facility; or~~
- 24 ~~(8) Knowingly place or use a camera or electronic surveillance device that transmits~~
 25 ~~or records images or data while conducting any of the activities prohibited by this~~
 26 ~~section committing criminal trespass as set forth in chapter 22-35.~~

27 This section does not apply to lawful activities of a governmental agency or
 28 emergency service carrying out its duties under law.

29 **Section 4. That § 40-38-3 be AMENDED:**

30 **40-38-3.** No person may, without consent, and with the intent to obstruct the
 31 enterprise conducted at ~~the animal~~ an agricultural production facility, enter or remain on
 32 ~~an animal~~ the agricultural production facility, if the person had notice that the entry was
 33 forbidden or received notice to depart but failed to do so. Notice includes communication

1 by the owner or any person with apparent authority to act for the owner, fencing ~~or~~ other
2 enclosures designed to exclude trespassers or to contain animals, or a sign posted on the
3 property or at the entrance to the animal agricultural production facility indicating that
4 entry is forbidden. This section does not apply to lawful activities of a governmental agency
5 or emergency service carrying out its duties under law.

6 **Section 5. That § 40-38-4 be AMENDED:**

7 **40-38-4.** Any person who violates subdivision 40-38-2(1) or (6) is guilty of a Class
8 2 misdemeanor if there is damage of four hundred dollars or less. Any person who violates
9 subdivision 40-38-2(7) or (8), is guilty of a Class 2 misdemeanor. Any person who violates
10 subdivision 40-38-2(1) or (6) is guilty of a Class 1 misdemeanor if there is damage ~~of~~ in
11 an amount greater than four hundred dollars and less than one thousand dollars. Any
12 person who violates subdivision 40-38-2(1) or (6) is guilty of a Class 4 felony if there is
13 damage of one thousand dollars or greater. Any person who violates subdivisions 40-38-
14 2(2) to (5), inclusive, is guilty of a Class 4 felony.

15 **Section 6. That a NEW SECTION be added to chapter 34A-2:**

16 The department may not provide an aggregated list, regardless of physical form,
17 containing the address, geographic coordinate systems location, or legal location of a
18 concentrated animal feeding operation with coverage under a general or individual water
19 pollution control permit issued pursuant to § 34A-2-36, except as required by federal law
20 or regulation, or at the discretion of the department in response to a request from a South
21 Dakota state agency or local government for information regarding a permitted operation
22 in the jurisdiction of the agency or local government.

23 **Section 7. That § 21-60-1 be REPEALED.**

24 ~~No person other than the owner may, willfully and knowingly, damage or destroy~~
25 ~~any field crop, animal, or organism product that is grown for personal or commercial~~
26 ~~purposes, or for testing or research purposes, in the context of a product development~~
27 ~~program in conjunction or coordination with a private research facility or a university or~~
28 ~~any federal, state, or local government agency. Any person who violates this provision is~~
29 ~~liable for twice the value of the crop, animal, or organism damaged or destroyed. However,~~
30 ~~this section does not apply to crops, animals, or organism damaged or destroyed by~~
31 ~~emergency vehicles and personnel acting in a reasonable and prudent manner.~~

1 **Section 8. That § 21-60-2 be REPEALED.**

2 In awarding damages under this chapter, the court shall consider the market value
3 of the crop, animal, or organism prior to damage or destruction, and production, research,
4 testing, replacement, and development costs directly related to the crop, animal, or
5 organism that has been damaged or destroyed as part of the value.

6 **Section 9. That § 21-60-3 be REPEALED.**

7 Damages available under this chapter are limited to twice the market value of the
8 crop, animal, or organism prior to damage or destruction plus twice the actual damages
9 involving production, research, testing, replacement, and development costs directly
10 related to the crop, animal, or organism that has been damaged or destroyed.