



2025 South Dakota Legislature

House Bill 1258

Introduced by: **Representative Uhre-Balk**

1 **An Act to subject lithium mining operations to certain provisions regarding**
 2 **permitting, annual reporting, disturbed land limitations, and mined land**
 3 **reclamation.**

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

5 **Section 1. That § 45-6-65 be AMENDED:**

6 **45-6-65.** An operator shall obtain a license to mine:

- 7 (1) Sand;
- 8 (2) Gravel;
- 9 (3) Rock to be crushed and used in construction;
- 10 (4) Pegmatite minerals for purposes other than to extract lithium;
- 11 (5) Limestone; and
- 12 (6) Iron ore, gypsum, shale, pozzolan, and other materials used in the process of
- 13 making cement or lime.

14 The operator shall comply with the requirements of §§ 45-6-68, 45-6-69, 45-6-71,
 15 and 45-6-72, for each site to be mined. Failure to comply with these requirements for
 16 each site mined constitutes mining without a license.

17 The fee for the license is one hundred dollars annually, for each mine site
 18 authorized under the license. The department shall forward any fees collected under this
 19 section to the state treasurer for deposit in the environment and natural resources fee
 20 fund established in § 1-41-23.

21 **Section 2. That § 45-6B-3 be AMENDED:**

22 **45-6B-3.** Terms used in this chapter mean:

- 23 (1) "Abandoned mined lands," lands that were mined for noncoal minerals and
 24 materials and for which there is no continuing reclamation responsibility or
 25 responsibility for other remedial action under state or federal laws;

- 1 (2) "Affected land," land from which overburden is to be or has been removed and land
2 upon which overburden, waste rock, mine spoil, or mill tailings is to be or has been
3 deposited; land which is disturbed by the building of access roads, railroad loops,
4 warehouses, storage areas, or other support facilities for the purpose of mining or
5 milling; and land affected by surface subsidence, unstable slopes, and other
6 surface effects caused by underground mine workings;
- 7 (3) "Aquifer," a water-bearing bed or stratum of permeable rock, sand, or gravel
8 capable of yielding usable quantities of water to wells or springs;
- 9 (4) "Black Hills," Lawrence County south of Interstate Highway 90, Meade County west
10 and south of Interstate Highway 90 and Pennington and Custer Counties west of
11 South Dakota Highway 79;
- 12 (5) "Board," the Board of Minerals and Environment;
- 13 (6) "Department," the Department of ~~Environment~~ Agriculture and Natural Resources;
- 14 (7) "Development," the work performed in relation to a deposit, following the
15 exploration required to prove minerals are in existence in commercial quantities
16 but before production activities, aimed at preparing the site for mining, defining
17 further the ore deposit by drilling or other means, conducting pilot plant operations,
18 constructing roads or ancillary facilities;
- 19 (8) "Life of the mine permit," a permit to conduct a mining operation which is in effect
20 if:
- 21 (a) An operator continues to engage in the extraction of minerals and complies
22 with the provisions of this chapter;
- 23 (b) Mineral reserves are shown by the operator to remain in the mining
24 operation and the operator plans to, or does, temporarily cease production
25 for one hundred eighty days or more if the operator files a notice thereof
26 with the board stating the reasons for nonproduction, a plan for ceasing
27 production for one hundred eighty days or more if the operator files a notice
28 thereof with the board stating the reasons for nonproduction, a plan for the
29 resumption of production, and the measures taken to comply with
30 reclamation and other necessary activities as established by the board to
31 maintain the mine in a nonproducing state. The requirement of a notice of
32 temporary cessation does not apply to operators who resume operating
33 within one year and have included, in their permit applications, a statement
34 following the exploration required to prove minerals are in existence in that

1 the affected lands are to be used for less than one hundred eighty days per
2 year;

- 3 (c) Production is resumed within five years of the date production ended, or
4 the operator files a report requesting an extension of the period of
5 temporary cessation of production with the board stating the reasons for
6 the continuation of nonproduction and those factors necessary to, and the
7 operator's plans for, resumption of production. A temporary cessation of
8 production may not be continued for more than ten years without
9 terminating the operation and fully complying with the reclamation
10 requirements of this chapter.

11 A life of the mine permit includes that period of time after cessation of production
12 necessary to complete reclamation of affected lands, until the board
13 releases, in writing, the operator from further reclamation obligations
14 regarding the affected land, declares the mining operation terminated, and
15 releases the surety thereon;

- 16 (9) "Milling," the beneficiation of a mined material from its natural occurrence in ore;
17 (10) "Mineral," a substance with economic value, whether organic or inorganic, that can
18 be extracted from the earth, other than the following: water, oil, gas, sand, gravel,
19 or rock to be crushed and used in construction~~;~~ pegmatite minerals mined for
20 purposes other than to extract lithium~~;~~ or limestone, sand, gypsum, shale, or iron
21 ore used in the process of making cement;
22 (11) "Mining operation," the development or extraction of a mineral from its natural
23 occurrence on affected land. The term includes surface mining and surface
24 operation, in situ mining, the reprocessing of tailings piles, the disposal of refuse
25 from underground mining, milling and processing located on the land described in
26 the application for a mining permit, and stand-alone milling and processing facilities
27 utilizing chemical or biological leaching agents. The term does not include
28 extraction of sand, gravel, or rock to be crushed and used in construction,
29 exploration activities, bulk sampling, the exploration and extraction of natural
30 petroleum in a liquid or gaseous state by means of wells or pipe, borrow excavation
31 for embankments, or the extraction of geothermal resources;
32 (12) "Operator," any person, firm, partnership, limited liability company, association, or
33 corporation or any department, division or agency of federal, state, county, or
34 municipal government engaged in or controlling a mining operation;

- 1 (13) "Overburden," all of the earth and other materials which are disturbed or removed,
 2 in the original state, or as it exists after removal from its natural state in the
 3 process of surface mining;
- 4 (14) "Reclamation," the employment during and after a mining operation of procedures
 5 reasonably designed to minimize as much as practicable the disruption from the
 6 mining operation and to provide for the rehabilitation of affected land through the
 7 rehabilitation of plant cover, soil stability, water resources, or other measures
 8 appropriate to the subsequent beneficial use of such mined and reclaimed lands;
- 9 (15) "Surface mining," the mining of minerals by removing the overburden lying above
 10 such deposits and mining directly from the deposits thereby exposed. The term
 11 includes mining directly from such deposits where there is no overburden and such
 12 practices as open cut mining, open pit mining, strip mining, placer mining,
 13 quarrying, and dredging;
- 14 (16) "Surface mining disturbed land," land from which overburden has been removed,
 15 land upon which overburden, waste rock, mine spoil, or mill tailings have been
 16 deposited, land mined which has no overburden, heap leach pads, and process
 17 ponds; and
- 18 (17) "Tailings," the discharged valueless product of a beneficiation process.

19 **Section 3. That § 45-6B-87 be AMENDED:**

20 **45-6B-87.** Nothing in this chapter relieves the holder of any large-scale gold or
 21 silver surface mining permit, or lithium mining operation permit, from any of the
 22 requirements of the Clean Air Act of 1955, ~~as amended to~~ 42 U.S.C. § 7401, et seq.
 23 ~~(January 1, 2011)~~, the Clean Water Act of 1977, ~~as amended to~~ 33 U.S.C. § 1251, et seq.
 24 ~~(January 1, 2011, the South Dakota Air Quality Act (chapter 34A-1), the Federal Water~~
 25 ~~Pollution Control Act of 1972, as amended to~~ ~~(January 1, 2011)~~, the Safe Drinking Water
 26 Act ~~(P.L. 93-523)~~, ~~as amended to~~, 42 U.S.C. § 300f, et seq. ~~(January 1, 2011)~~, the Mine
 27 Safety and Health Administration regulations ~~(30 C.F.R. Part 3830)~~, ~~as amended to~~,
 28 ~~(January 1, 2011)~~, the United States Forest Service surface mining and exploration
 29 reclamation requirements ~~(43 C.F.R. Part 23, and 36 C.F.R. page Part 228)~~, ~~as amended~~
 30 ~~to~~, ~~(January 1, 2011)~~, Bureau of Land Management mining and exploration requirements
 31 ~~(43 C.F.R. Part 3800)~~, ~~as amended to~~ ~~(January 1, 2011)~~, the ~~Mined Land Reclamation~~
 32 ~~Act (this chapter)~~, the ~~regulated substance discharges statutes in~~ chapter 34A-12, the
 33 Resource Conservation and Recovery Act of 1976, ~~as amended to~~ 42 U.S.C. § 6901, et
 34 seq. ~~(January 1, 2011)~~, the Comprehensive Environmental Response, Compensation and

1 Liability Act of 1980 (~~P.L. 95-510~~), ~~as amended to~~ 42 U.S.C. § 9601, et seq. (January 1,
 2 2011), the Toxic Substance Control Act of 1976 (~~P.L. 94-469~~), ~~as amended to~~ 15 U.S.C.
 3 § 2601, et seq. (January 1, 2011), Lawrence County extractive industries ordinances, ~~as~~
 4 ~~amended to~~ (January 1, 2011), and all rules and regulations promulgated to implement
 5 existing statutes, including rules dealing with air pollution, control of visible emissions,
 6 open burning, control of particulate emissions, control of sulfur compound emissions, new
 7 source performance standards, standards of performance for storage vessels of petroleum
 8 liquids, air standards, spill control plans, buried tanks, water pollution, public water
 9 systems, and dredge and fill permit requirements.

10 **Section 4. That § 45-6B-93 be AMENDED:**

11 **45-6B-93.** Any operator of a large-scale gold or silver surface mining operation,
 12 or a lithium mining operation, shall submit an annual report by January first of each year,
 13 ~~including and provide~~ an oral presentation to the Board of Minerals and Environment
 14 explaining the information in the written annual report. The annual report ~~shall include~~
 15 the following information must contain:

- 16 (1) The total and previous year's amount of affected land;
- 17 (2) The total and previous year's amount of surface mining disturbed land;
- 18 (3) The total and previous year's amount of land that has undergone interim
 19 reclamation;
- 20 (4) The total and previous year's amount of land that has undergone final reclamation
 21 and ~~which~~ meets the required post-mining land use;
- 22 (5) The total and previous year's amount of land that has undergone final reclamation
 23 but ~~which~~ does not meet the required post-mining land use;
- 24 (6) The ~~total~~ amount of groundwater withdrawn during the previous year;
- 25 (7) The ~~total~~ amount of surface water withdrawn during the previous year;
- 26 (8) The ~~total~~ amount of ore mined during the previous year;
- 27 (9) The ~~total~~ amount of ore processed during the previous year;
- 28 (10) The ~~total~~ amount of waste rock mined during the previous year;
- 29 (11) The ~~total~~ amount of gold and silver produced, or in the case of a lithium mine, the
 30 amount of lithium produced, during the previous year;
- 31 (12) The ~~total~~ amount of cyanide used during the previous year; and
- 32 (13) A brief discussion of the coming year's operational plans, including any anticipated
 33 revisions that might require department or board approval.

1 **Section 5. That § 45-6B-95 be AMENDED:**

2 **45-6B-95.** The board may not issue a permit for a new large-scale gold or silver
3 surface mining operation, or for a new lithium mining operation, if the proposed surface
4 mining disturbed lands under that permit ~~shall exceed~~ exceed three hundred twenty acres.
5 ~~Nor may the~~ The board may not issue new permits or amendments to existing permits for
6 new large-scale gold or silver surface mining operations, or for a new lithium mining
7 operation, for expanded acres of surface mining disturbed lands, until reclamation has
8 been performed in ~~accord~~ accordance with § 45-6B-97.

9 **Section 6. That § 45-6B-96 be AMENDED:**

10 **45-6B-96.** The board may not issue new permits to or amendments to existing
11 permits for presently operating large-scale gold or silver surface mining operations, or for
12 a presently operating lithium mining operation, for expanded acres of surface mining
13 disturbed lands, until reclamation has been performed in ~~accord~~ accordance with § 45-
14 6B-97, except that presently operating large-scale gold or silver surface mining operations
15 are not subject to this provision until the permitted acres of surface mining disturbed lands
16 total two hundred acres more per each individual permit than its permitted surface mining
17 disturbed land total acreage as of January 1, 1992.

18 **Section 7. That § 45-6B-97 be AMENDED:**

19 **45-6B-97.** New permits or amendments to existing permits for expanded acres of
20 surface mining disturbed land for operations referred to in §§ 45-6B-95 and 45-6B-96
21 may be issued only if the applicant has performed reclamation on an equal number of
22 acres of permitted affected land, or has agreed not to disturb an equal acreage of
23 permitted affected land, or, with consent of the board, has performed or agrees to perform
24 reclamation concurrently with disturbance of an equal number of acres of previously mined
25 land inside or outside a permit area boundary. For the purpose of §§ 45-6B-94 to 45-6B-
26 99, inclusive ~~only,~~ reclamation is performed when the operator completes required
27 grading, topsoil replacement, erosion, and drainage control and any required planting and
28 seeding that the department finds meets the requirements of the approved reclamation
29 plan. To qualify for reclamation credit, reclamation activities ~~shall~~ must have been
30 conducted after the operator was granted the original large-scale gold or silver surface
31 mining permit, or lithium mining operation permit, and surety for the reclaimed acres of
32 affected land ~~shall~~ must not have been released prior to November 19, 1992. With consent

1 of the board, a large-scale gold or silver surface mining, or lithium mining, operator may
2 assign reclamation credit acreage to another large-scale gold or silver surface mining
3 operator or lithium mining operator.