

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

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## HOUSE BILL NO. 1028

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Health

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete statutes related to  
2 the Department of Health.

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

4 Section 1. That § 1-43-2.1 be repealed.

5 ~~1-43-2.1. The authority and function of the Department of Environment and Natural~~  
6 ~~Resources and the Board of Minerals and Environment as it related to the enforcement of~~  
7 ~~radiation safety control activities and measures pertaining to x-ray producing devices and~~  
8 ~~sources of ionizing radiation used for diagnostic or therapeutic purposes in the practice of~~  
9 ~~medicine, chiropractic, podiatry, dentistry, veterinary, and all the healing arts are transferred to~~  
10 ~~the secretary of the Department of Health. The secretary of health shall perform and carry out~~  
11 ~~all the functions and duties relative to the enforcement of radiation safety control activities and~~  
12 ~~measures pertaining to x-ray producing devices and sources of ionizing radiation used for~~  
13 ~~diagnostic or therapeutic purposes in the practice of medicine, chiropractic, podiatry, dentistry,~~  
14 ~~veterinary, and all the healing arts including, but not limited to, the authority for requiring the~~  
15 ~~taking out of licenses for devices and sources and the authority to adopt, promulgate and enforce~~



1 ~~rules as may be necessary to implement or effectuate the powers and duties of the department.~~

2 Section 2. That § 1-43-2.2 be repealed.

3 ~~—1-43-2.2. The Board of Chiropractic Examiners, created by chapter 36-5, and its functions~~  
4 ~~in the former Department of Commerce and Regulation are transferred to the Department of~~  
5 ~~Health. The secretary of the Department of Health shall perform the functions of the former~~  
6 ~~secretary of the Department of Commerce and Regulation, relating to the Board of Chiropractic~~  
7 ~~Examiners.~~

8 Section 3. That § 1-43-2.3 be repealed.

9 ~~—1-43-2.3. The Board of Dentistry, created by chapter 36-6A, and its functions in the former~~  
10 ~~Department of Commerce and Regulation are transferred to the Department of Health. The~~  
11 ~~secretary of the Department of Health shall perform the functions of the former secretary of the~~  
12 ~~Department of Commerce and Regulation, relating to the Board of Dentistry.~~

13 Section 4. That § 1-43-2.4 be repealed.

14 ~~—1-43-2.4. The Board of Hearing Aid Dispensers and Audiologists, created by chapter 36-24,~~  
15 ~~and its functions in the former Department of Commerce and Regulation are transferred to the~~  
16 ~~Department of Health. The secretary of the Department of Health shall perform the functions~~  
17 ~~of the former secretary of the Department of Commerce and Regulation, relating to the Board~~  
18 ~~of Hearing Aid Dispensers and Audiologists.~~

19 Section 5. That § 1-43-2.5 be repealed.

20 ~~—1-43-2.5. The Board of Funeral Service, created by chapter 36-19, and its functions in the~~  
21 ~~former Department of Commerce and Regulation are transferred to the Department of Health.~~  
22 ~~The secretary of the Department of Health shall perform the functions of the former secretary~~  
23 ~~of the Department of Commerce and Regulation, relating to the Board of Funeral Service.~~

24 Section 6. That § 1-43-2.6 be repealed.

1 ~~— 1-43-2.6. The Board of Medical and Osteopathic Examiners, created by chapter 36-4, and~~  
2 ~~its functions in the former Department of Commerce and Regulation are transferred to the~~  
3 ~~Department of Health. The secretary of the Department of Health shall perform the functions~~  
4 ~~of the former secretary of the Department of Commerce and Regulation, relating to the Board~~  
5 ~~of Medical and Osteopathic Examiners.~~

6 Section 7. That § 1-43-2.7 be repealed.

7 ~~— 1-43-2.7. The Board of Nursing, created by chapter 36-9, and its functions in the former~~  
8 ~~Department of Commerce and Regulation are transferred to the Department of Health. The~~  
9 ~~secretary of the Department of Health shall perform the functions of the former secretary of the~~  
10 ~~Department of Commerce and Regulation, relating to the Board of Nursing.~~

11 Section 8. That § 1-43-2.8 be repealed.

12 ~~— 1-43-2.8. The Board of Nursing Facility Administrators, created by chapter 36-28, and its~~  
13 ~~functions in the former Department of Commerce and Regulation are transferred to the~~  
14 ~~Department of Health. The secretary of the Department of Health shall perform the functions~~  
15 ~~of the former secretary of the Department of Commerce and Regulation, relating to the Board~~  
16 ~~of Nursing Facility Administrators.~~

17 Section 9. That § 1-43-2.9 be repealed.

18 ~~— 1-43-2.9. The Board of Examiners in Optometry, created by chapter 36-7, and its functions~~  
19 ~~in the former Department of Commerce and Regulation are transferred to the Department of~~  
20 ~~Health. The secretary of the Department of Health shall perform the functions of the former~~  
21 ~~secretary of the Department of Commerce and Regulation, relating to the Board of Examiners~~  
22 ~~in Optometry.~~

23 Section 10. That § 1-43-2.10 be repealed.

24 ~~— 1-43-2.10. The Board of Pharmacy, created by chapter 36-11, and its functions in the former~~

~~Department of Commerce and Regulation are transferred to the Department of Health. The secretary of the Department of Health shall perform the functions of the former secretary of the Department of Commerce and Regulation, relating to the Board of Pharmacy.~~

Section 11. That § 1-43-2.11 be repealed.

~~1-43-2.11. The Board of Podiatry Examiners, created by chapter 36-8, and its functions in the former Department of Commerce and Regulation are transferred to the Department of Health. The secretary of the Department of Health shall perform the functions of the former secretary of the Department of Commerce and Regulation, relating to the Board of Podiatry Examiners.~~

Section 12. That § 1-43-3 be repealed.

~~1-43-3. The Department of Health shall consist of the agencies named in this chapter and such other agencies as may be created by law, executive order, and administrative action and placed under the Department of Health.~~

Section 13. That § 34-1-19 be repealed.

~~34-1-19. The State Department of Health shall cooperate with and make available its services to the State Department of Social Services, including the administrator of the South Dakota Developmental Center--Redfield, for the purpose of advancing the health and well-being of individuals with intellectual disabilities placed under the control of the department, whether institutionalized or not.~~

Section 14. That § 34-18A-1 be repealed.

~~34-18A-1. Hamburger, as used in this chapter, means chopped fresh or frozen beef, or a combination of both fresh or frozen beef, with or without the addition of beef fat as such, and with or without the addition of seasoning. Hamburger shall not contain more than thirty percent beef fat, and shall not contain added water, binders, or extenders. Trimmed beef cheeks may be~~

1 ~~used in the preparation of hamburger to the extent of twenty-five percent, and if in excess of~~  
2 ~~natural proportions, its presence shall be declared on the menu contiguous to the name of the~~  
3 ~~product or as otherwise required pursuant to § 34-18A-7.~~

4 Section 15. That § 34-18A-2 be repealed.

5 ~~— 34-18A-2. Imitation hamburger, as used in this chapter, means chopped fresh or frozen beef,~~  
6 ~~or a combination of fresh or frozen beef, with or without the addition of seasoning and with or~~  
7 ~~without the addition of binders or extenders, containing up to thirty percent beef fat, with or~~  
8 ~~without the addition of partially defatted beef tissue, with or without added water.~~

9 Section 16. That § 34-18A-3 be repealed.

10 ~~— 34-18A-3. Terms used throughout this chapter, unless the context otherwise plainly requires,~~  
11 ~~shall mean:~~

12 ~~— (1) — "Beef check meat," beef head meat from which the overlying glandular and~~  
13 ~~connective tissues have been removed;~~

14 ~~— (2) — "Binder," a material added to imitation hamburger to add cohesion to the product;~~

15 ~~— (3) — "Extender," a material added to imitation hamburger to increase the bulk of the~~  
16 ~~product;~~

17 ~~— (4) — "Partially defatted beef fatty tissue," a beef byproduct derived from the low~~  
18 ~~temperature rendering, not to exceed one hundred and twenty degrees Fahrenheit, of~~  
19 ~~fresh beef fatty tissue; such product shall have a pinkish color and fresh odor and~~  
20 ~~appearance;~~

21 ~~— (5) — "Seasonings," salt, sucrose, dextrose, spice, and flavoring, including essential oils,~~  
22 ~~oleoresins, and other spice extractives.~~

23 Section 17. That § 34-18A-4 be repealed.

24 ~~— 34-18A-4. "Restaurant," as used in this chapter, means any place where food is served to the~~

1 ~~public for consumption on or off the premises of sale.~~

2 Section 18. That § 34-18A-5 be repealed.

3 ~~— 34-18A-5. It is a Class 2 misdemeanor to advertise, offer for sale, sell, or serve as hamburger~~  
4 ~~or imitation hamburger any product which does not come within the definition of the terms~~  
5 ~~defined in §§ 34-18A-1 and 34-18A-2.~~

6 Section 19. That § 34-18A-6 be repealed.

7 ~~— 34-18A-6. No restaurant shall use the terms hamburger, burger, or any other cognate thereof~~  
8 ~~in any advertisement, or menu to refer to any imitation hamburger. A restaurant selling or~~  
9 ~~serving imitation hamburger shall refer to such product as imitation hamburger.~~

10 Section 20. That § 34-18A-7 be repealed.

11 ~~— 34-18A-7. If imitation hamburger is sold or served in any restaurant a list of ingredients~~  
12 ~~thereof shall appear on the menu, or, if there is no menu, such information shall be posted as the~~  
13 ~~State Department of Health shall by rules and regulations require.~~

14 Section 21. That § 34-18A-8 be repealed.

15 ~~— 34-18A-8. When cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein~~  
16 ~~concentrate, isolated soy protein, dried milk, nonfat dry milk, or calcium reduced dried skim~~  
17 ~~milk is added to imitation hamburger, there shall appear on the menu, or, if there is no menu,~~  
18 ~~there shall be posted as the State Department of Health shall by rules and regulations require,~~  
19 ~~contiguous to the name of the product, the name of each such added ingredient and the~~  
20 ~~percentage of its composition of the product.~~

21 Section 22. That § 34-18A-9 be repealed.

22 ~~— 34-18A-9. The State Department of Health shall inspect the restaurants in the State of South~~  
23 ~~Dakota each year to determine whether or not the restaurants are demonstrating compliance with~~  
24 ~~this chapter.~~

Section 23. That § 34-20B-93 be repealed.

~~34-20B-93. The Department of Health shall, in addition to other powers and duties vested in it by this chapter or any other act, encourage research on misuse and abuse of controlled drugs and substances.~~

Section 24. That § 34-20B-94 be repealed.

~~34-20B-94. In connection with the research authorized by § 34-20B-93 and in furtherance of its other duties, the department of health is authorized to make studies and undertake programs of research to:~~

~~(1) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter or any other act,~~

~~(2) Determine patterns of misuse and abuse of controlled drugs and substances and the social effects thereof; and~~

~~(3) Improve methods of preventing, predicting, understanding, and dealing with the misuse and abuse of controlled drugs and substances.~~

Section 25. That § 34-20B-95 be repealed.

~~34-20B-95. In connection with the research authorized by § 34-20B-93 and in furtherance of its other duties, the Department of Health is authorized to enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled drugs and substances.~~

Section 26. That § 34-20B-96 be repealed.

~~34-20B-96. The Department of Health shall, in addition to other powers and duties vested in it by this chapter or any other act, enter into contracts for educational and research activities without performance bonds.~~

Section 27. That § 34-20B-97 be repealed.

~~34-20B-97. The Department of Health shall, in addition to other powers and duties vested in it by this chapter or any other act, authorize persons engaged in research on the use and effects of drugs and substances to withhold names and other identifying characteristics of persons who are the subjects of such research. Such persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.~~

Section 28. That § 34-20B-98 be repealed.

~~34-20B-98. The Department of Health shall, in addition to other powers and duties vested in it by this chapter or any other act, authorize the possession and distribution of controlled drugs and substances by persons engaged in research. Such persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of drugs and substances to the extent authorized by the department.~~

Section 29. That § 34-20B-99 be repealed.

~~34-20B-99. The Department of Health shall, in addition to other powers and duties vested in it by this chapter or any other act, coordinate and cooperate in training programs on drugs and substances law enforcement at the local and state levels.~~

Section 30. That § 34-20B-101 be repealed.

~~34-20B-101. The departments of health and human services and the attorney general may accept and expend any federal funds for drug abuse prevention, intervention, care, treatment, rehabilitation, planning, education, law enforcement, or any other drug abuse activity, in accordance with legislative appropriations procedures. Any grant of money so received shall be deposited in the state treasury in a special fund to the credit of the Department of Health or human services or the attorney general and shall be used for the purpose for which it is given~~



1 ~~or granted.~~

2 Section 31. That § 34-20B-102 be repealed.

3 ~~—34-20B-102. The Department of Health shall, in addition to other powers and duties vested~~  
4 ~~in it by this chapter or any other act, coordinate and regulate educational programs designed to~~  
5 ~~prevent and deter misuse and abuse of controlled drugs and substances and marijuana. In~~  
6 ~~connection with such programs the department is authorized to:~~

7 ~~—(1)—Promote better recognition of the problems of misuse and abuse of controlled drugs~~  
8 ~~and substances and marijuana within the regulated industry and among interested~~  
9 ~~groups and organizations;~~

10 ~~—(2)—Assist the regulated industry and interested groups and organizations in contributing~~  
11 ~~to the reduction of misuse and abuse of controlled drugs and substances and~~  
12 ~~marijuana;~~

13 ~~—(3)—Consult with interested groups and organizations to aid them in solving~~  
14 ~~administrative and organizational problems;~~

15 ~~—(4)—Evaluate procedures, projects, techniques, and controls conducted or proposed as part~~  
16 ~~of educational programs on misuse and abuse of controlled drugs and substances and~~  
17 ~~marijuana;~~

18 ~~—(5)—Disseminate the results of research on misuse and abuse of controlled drugs and~~  
19 ~~substances and marijuana to promote a better public understanding of what problems~~  
20 ~~exist and what can be done to combat them;~~

21 ~~—(6)—Assist in the education and training of state and local enforcement officials in their~~  
22 ~~efforts to control misuse and abuse of controlled drugs and substances and marijuana.~~

23 Section 32. That § 34-20B-110 be repealed.

24 ~~—34-20B-110. In connection with the research authorized by § 34-20B-93 and in furtherance~~

1 ~~of its other duties, the Department of Health is authorized to establish methods to assess~~  
2 ~~accurately the effects of controlled drugs and substances and to identify and characterize~~  
3 ~~controlled drugs and substances with potential for abuse.~~

4 Section 33. That § 34-24-26 be repealed.

5 ~~— 34-24-26. Any licensed physician, audiologist, or other certified person who shall have~~  
6 ~~cause to suspect severe auditory impairment in any child, or any licensed optometrist or~~  
7 ~~physician, including ophthalmologists, who shall have cause to suspect severe visual~~  
8 ~~impairment in any child, shall be required to provide the name and address of any such child to~~  
9 ~~the State Department of Health and the parents of the child on forms to be provided by the~~  
10 ~~department, however, if any licensed physician, including ophthalmologists, audiologist,~~  
11 ~~optometrist, or other certified person shall have cause to believe that any child has already been~~  
12 ~~reported to the department, an additional report need not be made.~~