



2020 South Dakota Legislature

House Bill 1023

Introduced by: The Committee on Transportation at the request of the Department of Revenue

1 **An Act to permit the secretary of revenue to issue cease and desist orders and to**
 2 **impose a civil penalty on certain public auctions.**

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

4 **Section 1.** That § 32-6B-41.1 be AMENDED:

5 **32-6B-41.1. Cease and desist order for specified violations--Period of**
 6 **effectiveness.**

7 In addition to any other remedy provided by law, the secretary of revenue may
 8 issue an order directing a vehicle dealer or public auction to cease and desist from
 9 engaging in any act or practice enumerated in § 32-6B-41. A cease and desist order issued
 10 pursuant to this section is effective for a period of two years.

11 **Section 2.** That § 32-6B-41.2 be AMENDED:

12 **32-6B-41.2. Cease and desist order--Request for hearing--Procedure.**

13 Within twenty days after service of the order to cease and desist, the vehicle dealer
 14 or public auction may request a hearing in writing on the question of whether acts or
 15 practices in violation of this title have occurred. Any hearing shall be conducted pursuant
 16 to, and judicial review shall be available as provided by, chapter 1-26.

17 **Section 3.** That a NEW SECTION be added:

18 **32-6B-41.7. Cease and desist order--Failure to comply--Penalty.**

19 If a public auction fails to comply with a cease and desist order issued pursuant to
 20 § 32-6B-41.1, the secretary may issue an order imposing a monetary penalty on the public
 21 auction of five hundred dollars for each subsequent violation of the cease and desist order.
 22 All monetary penalties collected pursuant to this section shall be deposited in the state
 23 motor vehicle fund.

1 **Section 4.** That § 32-6B-41.5 be AMENDED:

2 **32-6B-41.5. Contest of order--Procedure.**

3 A dealer or public auction may request a hearing to contest an order issued
4 pursuant to § 32-6B-41.4 or 32-6B-41.7. The request shall be submitted to the secretary
5 in writing within twenty days after service of the order. Any hearing shall be conducted
6 pursuant to, and judicial review shall be available as provided by, chapter 1-26.

7 **Section 5.** That § 32-6B-41.6 be AMENDED:

8 **32-6B-41.6. Finality of order.**

9 An order issued pursuant to § 32-6B-41.4 or 32-6B-41.7 becomes final upon
10 expiration of the time allowed for appeals from the secretary's order, if no appeal is taken,
11 or, if an appeal is taken, upon final decision of the court if the court affirms the secretary's
12 order or dismisses the appeal.