

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

345A0589

HOUSE ENGROSSED NO. **HB1158** - 2/20/97

Introduced by: Representatives Chicoine, Kazmerzak, Lee, Lockner, Schrempp, Waltman, and Weber and Senators Kloucek, Hunhoff, Hutmacher, Lawler, and Symens

1 FOR AN ACT ENTITLED, An Act to prohibit certain hog farming operations that have
2 committed environmental or other violations from operating in South Dakota.

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

4 Section 1. That § 1-40-27 be amended to read as follows:

5 1-40-27. The secretary may reject an application for any permit filed pursuant to
6 Titles 34A or 45, including any application by any concentrated swine feeding operation for
7 authorization to operate under a general permit, upon making a specific finding that:

8 (1) The applicant is unsuited or unqualified to perform the obligations of a permit holder
9 based upon a finding that the applicant, any officer, director, partner or resident
10 general manager of the facility for which application has been made:

11 (a) Has intentionally misrepresented a material fact in applying for a permit;

12 (b) Has been convicted of a felony or other crime involving moral turpitude;

13 (c) Has habitually and intentionally violated environmental laws of any state or the
14 United States which have caused significant and material environmental
15 damage;

1 (d) Has had any permit revoked under the environmental laws of any state or the
2 United States; or

3 (e) Has otherwise demonstrated through clear and convincing evidence of previous
4 actions that the applicant lacks the necessary good character and competency
5 to reliably carry out the obligations imposed by law upon the permit holder; or

6 (2) The application substantially duplicates an application by the same applicant denied
7 within the past five years which denial has not been reversed by a court of competent
8 jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant
9 from submitting a new application for a permit previously denied, if the new
10 application represents a good faith attempt by the applicant to correct the deficiencies
11 that served as the basis for the denial in the original application.

12 All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to
13 under oath and signed by the applicant, that he is not disqualified by reason of this section from
14 obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute
15 a prima facie showing of the suitability and qualification of the applicant. If at any point in the
16 application review, recommendation or hearing process, the secretary finds the applicant has
17 intentionally made any material misrepresentation of fact in regard to this certification,
18 consideration of the application may be suspended and the application may be rejected as
19 provided for under this section.

20 Applications rejected pursuant to this section constitute final agency action upon that
21 application and may be appealed to circuit court as provided for under chapter 1-26.

1 **BILL HISTORY**

2 1/29/97 First read in House and referred to Agriculture & Natural Resources. H.J. 197

3 1/30/97 Scheduled for Committee hearing on this date.

4 2/4/97 Scheduled for Committee hearing on this date.

5 2/11/97 Scheduled for Committee hearing on this date.

6 2/13/97 Scheduled for Committee hearing on this date.

7 2/13/97 Scheduled for Committee hearing on this date.

8 2/13/97 Deferred to 41st legislative day, AYES 7, NAYS 6. H.J. 461

9 2/14/97 Report Without Recommendation, AYES 10, NAYS 3.

10 2/14/97 Recalled from committee (Rule 7-7). H.J. 485

11 2/14/97 Report Without Recommendation, AYES 10, NAYS 3. H.J. 515

12 2/18/97 House of Representatives Placed on Calendar, AYES 49, NAYS 21. H.J. 532

13 2/19/97 Motion to Amend. H.J. 576

14 2/19/97 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 2. H.J. 577