

House Daily Reader

Thursday, January 17, 2002

Bills Included				
HB 1019	HB 1020	HB 1021	HB 1024	

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0149

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1019** -

01/15/2002

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to livestock brands and
2 livestock ownership inspection.

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

4 Section 1. That § 40-18-1.2 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Process," to cut and wrap a livestock carcass for human consumption.

7 Section 2. That § 40-19-3 be amended to read as follows:

8 40-19-3. The branding of cattle, horses, mules, and buffalo shall be done by use of a hot iron.

9 A freeze brand may, however, be applied to horses and mules. A single letter, number, figure,
10 bar, quarter circle, half circle, or complete circle, or a half diamond, or complete diamond placed
11 on livestock are unrecordable brands under this chapter, including new split-brands. However,
12 presently recorded brands are valid as long as fees are paid and there is no conflict with board
13 policy.

14 A single letter or ~~figure~~ number brand is recordable for sheep. A sheep brand shall be either



1 a hot iron brand or shall be applied with branding paint. No more than two colors or one color
2 and a hot iron brand may be recorded for sheep under one application fee. Authorized paint
3 colors are yellow, blue, green, black, red, or purple. No dot, bar, slash, quarter circle, circle, or
4 the letter "Q" may be registered as a sheep brand. A brand may be recorded for the side, hip,
5 nose, or jaw on either the left or right side of sheep. No brand may be recorded as "across the
6 back" of a sheep. A sheep brand, regardless of position, is only recordable in a different color on
7 the same location.

8 Section 3. That § 40-20-26.2 be amended to read as follows:

9 40-20-26.2. The provisions of § 40-20-26.1 notwithstanding, ownership of livestock with
10 the seller's South Dakota recorded and healed brand or the owner's unbranded livestock may be
11 transferred by means of an authorized bill of sale without a brand inspection. The bill of sale shall
12 be on a form prescribed by the board. A copy of an authorized bill of sale shall be forwarded to
13 the board ~~or its authorized inspecting agency and shall be postmarked within ten days of such~~
14 ~~ownership transfer. A violation of the forwarding requirement is a Class 2 misdemeanor. An~~
15 authorized bill of sale does not substitute for inspection of livestock being removed from the
16 ownership inspection area of South Dakota.

17 An authorized bill of sale may transfer no more than five head of livestock to any one buyer.
18 Multiple authorized bills of sale may not be executed to subdivide numbers of livestock greater
19 than five to any one buyer. The transfer of livestock without an authorized bill of sale under this
20 section or in violation of the requirements relating to the number of livestock that may be
21 transferred to a single buyer is a Class 1 misdemeanor.

22 Section 4. That § 40-20-29 be amended to read as follows:

23 40-20-29. It is a Class 1 misdemeanor for any person ~~slaughtering or processing to slaughter~~
24 or process livestock commercially within the livestock ownership inspection area ~~to kill any~~

1 ~~livestock~~, until the livestock have received an ownership inspection and the certificate of such
2 inspection is filed and is made a part of that person's permanent records, or unless the person has
3 the hide of each slaughtered carcass available for inspection. An ownership brand inspection
4 certificate on livestock is valid for no longer than four days from the date of issue. Livestock
5 arriving at slaughter destination later than four days from the date indicated on the inspection
6 certificate shall be inspected and the fee collected. All certificates of ownership inspection shall,
7 at any time upon demand, be displayed to any law enforcement officer or to the board.

8 Section 5. That § 40-22-6 be repealed.

9 ~~40-22-6. Any person who slaughters livestock within the ownership inspection area shall~~
10 ~~possess an ownership inspection certificate for each carcass slaughtered or have the hides~~
11 ~~available for inspection with ears and tails attached, including all brands, tattoos, ear marks and~~
12 ~~other marks of identification of each carcass. A violation of this section is a Class 1~~
13 ~~misdemeanor.~~

14 Section 6. That § 40-22-12 be amended to read as follows:

15 40-22-12. Any person slaughtering or processing livestock outside the ownership inspection
16 area ~~which came from inside the ownership inspection area~~ shall, upon demand of any law
17 enforcement officer ~~or brand inspector~~, ~~within a reasonable period of time produce a hide or~~
18 ~~proof of ownership of the slaughtered livestock. A violation of this section is a Class 1~~
19 ~~misdemeanor, provide names and dates of persons who delivered livestock for slaughter that may~~
20 have originated from within the ownership inspection area.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0202

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1020 - 01/15/2002

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the term of retention of certain records by insurers
2 and to require certain delivery receipts to be forwarded to an insurer.

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

4 Section 1. That § 58-15-8.2 be amended to read as follows:

5 58-15-8.2. An insurance company or fraternal benefit society shall issue policies in this state
6 for which an examination period is required in accordance with one of the following methods:

- 7 (1) If the policy is delivered by an insurance producer, a receipt shall be signed by the
8 policyowner acknowledging delivery of the policy. The receipt shall include the policy
9 number and the date of the delivery;
- 10 (2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return
11 receipt requested, or a certificate of mailing shall be obtained showing the date the
12 policy was mailed to the policyowner. For policy issuances verified by a certificate of
13 mailing, it is presumed that the policy is received by the policyowner ten days from
14 the date of mailing.



1 The receipts and the certificates of mailing described in this section shall be retained by the
2 insurer ~~or insurance producer~~ for ~~three~~ five years. If a producer obtains the delivery receipt, the
3 producer shall forward the signed delivery receipt to the insurer.

4 Section 2. That § 58-15-59.2 be amended to read as follows:

5 58-15-59.2. An insurance company or fraternal benefit society shall issue policies in this state
6 for which an examination period is required in accordance with one of the following methods:

7 (1) If the policy is delivered by an insurance producer, a receipt shall be signed by the
8 policyowner acknowledging delivery of the policy. The receipt shall include the policy
9 number and the date of the delivery;

10 (2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return
11 receipt requested, or a certificate of mailing shall be obtained showing the date the
12 policy was mailed to the policyowner. For policy issuances verified by a certificate of
13 mailing, it is presumed that the policy is received by the policyowner ten days from
14 the date of mailing.

15 The receipts and the certificates of mailing described in this section shall be retained by the
16 insurer ~~or insurance producer~~ for ~~three~~ five years. If a producer obtains the delivery receipt, the
17 producer shall forward the signed delivery receipt to the insurer.

18 Section 3. That § 58-17-11.1 be amended to read as follows:

19 58-17-11.1. An insurance company, nonprofit hospital service plan, medical service
20 corporation, health maintenance organization, or fraternal benefit society shall issue policies in
21 this state for which an examination period is required in accordance with one of the following
22 methods:

23 (1) If the policy is delivered by an insurance producer, a receipt shall be signed by the
24 policyowner acknowledging delivery of the policy. The receipt shall include the policy

1 number and the date of the delivery;

2 (2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return
3 receipt requested, or a certificate of mailing shall be obtained showing the date the
4 policy was mailed to the policyowner. For policy issuances verified by a certificate of
5 mailing, it is presumed that the policy is received by the policyowner ten days from
6 the date of mailing.

7 The receipts and the certificates of mailing described in this section shall be retained by the
8 insurer ~~or insurance producer~~ for ~~three~~ five years. If a producer obtains the delivery receipt, the
9 producer shall forward the signed delivery receipt to the insurer.

10 Section 4. That § 58-28-24.2 be amended to read as follows:

11 58-28-24.2. An insurance company or fraternal benefit society shall issue policies in this state
12 for which an examination period is required in accordance with one of the following methods:

13 (1) If the policy is delivered by an insurance producer, a receipt shall be signed by the
14 policyowner acknowledging delivery of the policy. The receipt shall include the policy
15 number and the date of the delivery;

16 (2) If the policy is delivered by mail, it shall be sent by registered or certified mail, return
17 receipt requested, or a certificate of mailing shall be obtained showing the date the
18 policy was mailed to the policyowner. For policy issuances verified by a certificate of
19 mailing, it is presumed that the policy is received by the policyowner ten days from
20 the date of mailing.

21 The receipts and the certificates of mailing described in this section shall be retained by the
22 insurer ~~or insurance producer~~ for ~~three~~ five years. If a producer obtains the delivery receipt, the
23 producer shall forward the signed delivery receipt to the insurer.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0201 **HOUSE COMMERCE COMMITTEE ENGROSSED NO.**
HB 1021 - 01/15/2002

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the record retention period for certain insurance
2 licensees and registrants.

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

4 Section 1. That § 58-30-127 be amended to read as follows:

5 58-30-127. No managing general agent may place business with an insurer unless there is in
6 force a written contract between the parties which sets forth the responsibilities of each party and
7 specifies the division of common or shared responsibilities. The contract shall contain the
8 following minimum provisions:

9 (1) The insurer may terminate the contract for cause upon written notice to the managing
10 general agent. The insurer may suspend the underwriting authority of the managing
11 general agent during the pendency of any dispute regarding the cause for termination;

12 (2) The managing general agent shall render accounts to the insurer detailing all
13 transactions and remit all funds due under the contract to the insurer on not less than
14 a monthly basis;



- 1 (3) All funds collected for the account of an insurer shall be held by the managing general
2 agent in an escrow account in a bank which is a qualified United States financial
3 institution as defined in § 58-30-139. This account shall be used for all payments on
4 behalf of the insurer. The managing general agent may retain no more than three
5 months estimated claims payments and allocated loss adjustment expenses;
- 6 (4) Separate records of business written by the managing general agent shall be
7 maintained. The insurer shall have access and right to copy all accounts and records
8 related to its business in a form usable by the insurer and the director shall have access
9 to all books, bank accounts, and records of the managing general agent in a form
10 usable to the director. Records shall be retained for ~~three~~ five years or until examined,
11 ~~whichever is later~~;
- 12 (5) The contract may not be assigned in whole or part by the managing general agent;
- 13 (6) Appropriate underwriting guidelines including:
- 14 (a) The maximum annual premium volume;
- 15 (b) The basis of the rates to be charged;
- 16 (c) The types of risks which may be written;
- 17 (d) Maximum limits of liability;
- 18 (e) Applicable exclusions;
- 19 (f) Territorial limitations;
- 20 (g) Policy cancellation provisions; and
- 21 (h) The maximum policy period; and
- 22 (7) Timely transmission of electronic claims files.

23 The insurer may cancel or nonrenew any policy of insurance subject to the applicable laws
24 and regulations concerning the cancellation and nonrenewal of insurance policies.

1 Section 2. That chapter 58-1 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any insurer, nonprofit, surgical, dental or hospital plan, a health maintenance organization,
4 or any other person required to be licensed or registered under this title shall retain all books and
5 records that are subject to examination pursuant to chapter 58-3 for a period of not less than five
6 years.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0205

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1024** - 01/15/2002

Introduced by: The Committee on Transportation at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the penalties for overweight vehicle violations.

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

3 Section 1. That § 32-22-55 be amended to read as follows:

4 32-22-55. Any person who is convicted of the offense of operating a motor vehicle upon the
5 public highways of this state with weight upon any wheel, axle, or groups of axles or upon more
6 than one thereof greater than the maximum permitted by §§ 32-22-2 to 32-22-33, inclusive,
7 32-22-47 and 32-22-48 shall be fined in addition to, and not in substitution for, any other
8 penalties now provided by law for such offense in the following amounts:

9 In an amount equal to five cents per pound for each pound of such excess or combined
10 excess weight over one thousand pounds if such excess is three thousand pounds or less.

11 In an amount equal to fifteen cents per pound for each pound of such excess or combined
12 excess weight if such excess exceeds three thousand pounds and is four thousand pounds or less.

13 In an amount equal to twenty-two and one-half cents per pound for each pound of such
14 excess or combined excess weight if such excess exceeds four thousand pounds and is five



1 thousand pounds or less.

2 In an amount equal to thirty-seven and one-half cents per pound for each pound of such
3 excess or combined excess weight if such excess ~~is more than~~ exceeds five thousand pounds and
4 is ten thousand pounds or less.

5 In an amount equal to seventy-five cents per pound for each pound of such excess or
6 combined excess weight if such excess is more than ten thousand pounds.

7 The fine schedule in this section is assessed at a single rate according to the cents per pound
8 penalty for the highest weight violation.

9 Section 2. That § 32-22-56 be repealed.

10 ~~—32-22-56. In any case where the motor vehicle is absolutely overweight beyond ten thousand~~
11 ~~pounds, the pounds by which the vehicle is so overweight shall be assessed at double the~~
12 ~~penalties prescribed in § 32-22-55.~~